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THE JOURNAL OF SIR SIMONDS D'EWES

FROM THE BEGINNING OF THE LONG PARLIAMENT TO THE OPENING OF THE TRIAL OF THE EARL OF STRAFFORD

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TO MY MOTHER

PREFACE

No private journal of Parliament during the seventeenth century, or for that matter in any century, can compare in importance with that of Sir Simonds D'Ewes. He dealt with the most interesting and revolutionary of English parliaments; he told the story in great detail; and he was scrupulously painstaking and accurate. His is a journal made for the purposes of historians. Beyond that circle also it must command interest. His notes, more than those of any other who ever kept a diary of the Commons, retain the color and personality of the writer. If he sought to leave an objective record of events his pen betrayed him, and both his scribbled jottings and his finished narrative tell more than he intended.

His manuscript volumes have been for the best part of a century the main source for our knowledge of the first five years of the Long Parliament. Out of them Thomas Carlyle, John Forster, and J. L. Sandford, the new school of Civil War historians, built a solid structure of comment, studies, and monographs; upon them the great Gardiner to a large degree based his narrative of those critical years. Up to the time when Carlyle began turning over the folios of D'Ewes in the British Museum, students of the beginning of the English revolution had looked mainly to Rushworth, to Whitelocke, and to Clarendon. D'Ewes proved to be a much more nearly contemporary and a more dependable source.

It is a strange thing that such manuscripts have never been published. Carlyle urged that they should be, and, with the enthusiasm of a discoverer, declared: "We call these Notes the most interesting of all Manuscripts. . . . To an English soul who would understand what was really memorable and godlike in the History of his Country . . . what other record can be so precious?" John Bruce, interested less in the godlike than in the historical, was equally impressed with their value. "We are not acquainted," he said, "with any Historical Memorials of that momentous period that can be at all compared with them in point of importance. . . . There is not . . . a man of any parliamentary importance during that ever memorable period, whose character they do not strikingly illustrate. Cromwell, Hampden, Pym, Strode, Martin—all the leaders without exception—and many other persons who exercised an influence in that House for which the world has not yet given them credit, are here brought before us times out of number—in their very habits as they lived—and with a reality which we seek in vain in any of the other memorials of that period." Neither the recommendation of Carlyle nor that of Bruce availed to bring about the publication of D'Ewes. There was such a mass of his journals that editors and publishers must naturally have hesitated. It was a good deal easier to make immediate use of matters relevant to special purposes than to make D'Ewes accessible to the whole historical public.

Yet D'Ewes was intended for that public. No man ever set himself more seriously to record the goings-on in Parliament. No man ever came to the task with a better technical equipment. For years he had been collecting in the most antiquarian fashion every bit of information that he could find about Elizabethan parliaments. Those bits he had pieced together into that historical mosaic which remains our best source for the parliaments of the great Queen. D'Ewes knew, none better, what complete minutes mean for the historian; he knew that the historian asks, not for summaries, but for details—who moved, who seconded, who opposed, why, what was the result. Hence, when he entered that body whose manners and precedents had been long his study, he set out to give a full account of the proceedings for every day. So careful was he to get the whole story that, when detained at a conference, he went round to some other member to find what he had missed, and then noted it down.

In an unused folio of his fourth volume he explains how he came to write his journal. At first he intended, he says, "to write fowle notes onlie as memorialls, though divers particulars, as some orders and most of my owne speeches, weere entred as largelie as ever I intended to enter them. . . . But seeing the worke grow to a vast proportion by the long continuance etc., no hope of that, etc., but thought rather to preserve them thus." He then goes on to say, too modestly, that up to folio 1056 the work is "in many places useles," but from there on "what is sett downe cleare and perfitt for the most parte, and is of extraordinarie use for the storie etc. And for that which is most imperfectlie and broakenlie sett downe, it may for the most part be easilie perfected by comparing it with the clarks booke, and may serve to perfect his Journall alsoe in one particular, for whereas hee was often enforced by the multitude of orders which weere made to enter those first made after divers others put nigh to them in time, I have for the most part sett down all particulars in the same order as they weere moved, debated and voted." And then, suddenly conscious that he had erected a monument in its way sure to outlast time, he continues: "Thorough the whole frame of this Journall it must be observed that ther are most important passages conducing to the Nationall storie of this Realme in it selfe and as it had relation to other nations, farr surpassing all other Journalls of Parliament now upon Recorde."

He has exaggerated not a whit. He wrote what will eventually fill perhaps eight large quarto volumes of print, and he made few mistakes. His effort to tell the exact truth about the events of every day was part and parcel of his own historical training. During a February session of the Commons in 1641 he had been making a speech, when a message came from the Upper House. "Soe I sate downe desiring not to hinder the same.

But divers called me up againe and would have me proceed. Soe I did, but whether it happened just at this clause I cannot certainly tell."

To arrange the text of D'Ewes has not been to follow a clearly marked path. It is true that he wrote his account day by day. But he left many blank spaces to be filled later. Sometimes he failed to fill those gaps; more often he did fill them and, having more to tell, turned back the folios and used space wherever he could find it. In most instances, but not in all, he put up guideposts for the reader.

The arrangement would, however, be comparatively simple, had he kept but one kind of notes. During the sessions of the Commons he made hurried notes, rough scribbled jottings, containing the names of the speakers and significant phrases from what they said. Then in the evening after, or possibly several evenings after, he rewrote these notes into a finished and rather wordy narrative. For the first three months of the Parliament we have only the smooth draft; after that we have parts of each day in both drafts, often all of the day in the rough draft and part in the smooth, occasionally all in the smooth as well, but usually part in the smooth and part in the rough, the two giving us the whole day or nearly all of it. On most days when the work of committees piled up, D'Ewes was by evening so fagged that he wrote only a small part of his finished text and referred readers to his rough notes for the remaining events of the day. So important is every bit of information about the Long Parliament that I was tempted to print both the rough and smooth notes *in extenso*. The present cost of printing made such a project a luxury. What I have done is to publish the finished narrative for every day, so far as it goes. When that narrative breaks off I have completed the day from the rough notes, and marked the distinction between smooth and rough by putting the latter notes in smaller type. To fit the rough and smooth together at the right point, without overlapping or gaps, has not always been as simple as it might seem. But the rough notes contain words and phrases not to be found in the smooth—words sometimes significant. Hence I have put into the footnotes of the finished account any least word from the rough which seemed either to add or to differ. The use of such a method can only be justified if carried out perfectly. Yet the alternative, to publish both accounts, was out of the question.

To publish all of the smooth draft, annotated by the rough; to add rough text where smooth failed—this was not, indeed, to dispose of all the difficulties. D'Ewes occasionally used a secretary who copied his rough notes into a much more readable hand, and who, incidentally, spelled in a much more modern way. Then D'Ewes would sometimes look over his secretary's copy and interline it with corrections and additions. This makes the secretary's copy a later version than the rough notes, a slightly nearer approach to the finished version. For that reason I have given it precedence, using it as the text, rather than the rough notes of D'Ewes, when both were available. Here I have made footnotes from the original rough version only where the secretary had made copyist's errors. Wherever the secretary's copy is printed either as small type text or as footnotes, D'Ewes's interlineations have been printed in italics. It is hoped that the reader will not confuse these italics with those of the latin words throughout the text. It will simplify matters possibly for the reader if he will bear in mind that all the rough notes, including the secretary's version, are in Harl. 164, while the smooth notes are to be found in Harl. 162, and that Harl. 164 is always in small type, and is also indicated by notation in the margin.

One other type of material in D'Ewes deserves mere mention. He had scribbled down a certain number of notes about the Commons on the backs and margins of old letters. The letters are all gathered together in the first part of Harl. 165. These scribblings, whenever they add anything, I have put into footnotes.

Would there were space to deal with Sir Simonds as a person. Carlyle called him a "thin high-flown character of eminent perfection and exactitude, little fit for any solid business in this world, yet by no means without his uses there." John Bruce devoted a brilliant article to him. An antiquarian in an age of antiquarianism, D'Ewes came from a Suffolk country house to Westminster at a time when men of his learning were much wanted. Coke, Cotton, and Hakewill were gone, Selden was getting old and loath even to cite precedents. Parliamentary orators in their struggle with the King needed, or thought they needed, continuous supplies of munitions from the parliament rolls. What was to be done must be justified from what had been done. Antiquarianism had played and was still playing a great rôle in affairs. D'Ewes's ability to quote, almost offhand, the records of the past invested him with an immediate importance.

Had he not been so fussy and so self-centered a man, had he not wasted his chance of influence by much speaking, he might by his knowledge have won a worthy place in the Long Parliament. He had a gift for saying over again in more words what had been briefly expressed by someone else. The leaders of that body made use of his learning, they put him on many committees, to his great satisfaction; but they never took him into their counsels, and when members grew weary of his pedantry and jested at his precedents, they gradually allowed him less importance. And little wonder. In the other diaries of the time he is seldom mentioned. Even his fellow note-taker, John Moore of Liverpool, forgot to ascribe some remarks he recorded to their proper source. But D'Ewes, looking over his friend's notes, wrote down: "This speech by Sir Simonds D'Ewes."

Had there been no D'Ewes, the Long Parliament would not have gone unrecorded in private journals. Yonge, Whiteacre, Northcote, Townshend, Verney, Gawdy, Moore, Peyton, Palmer, and the anonymous authors of Harleian 1601 and of Rawlinson C 956—all of them at one time or another kept jottings of what went on in that Parliament. Yonge and Whiteacre did not begin their notes until after the time about which I am concerned in this volume. Northcote, Verney, and Townshend have been published. But Framlingham Gawdy, John Moore, Sir Thomas Peyton, Geoffrey Palmer, and the authors of Harleian 1601 and of Rawlinson C 956 kept notes that have never been published, and the last four, notes that have never been used.

How was all this material to be handled? The printed diaries, where they brought out differences, or added a detail, or explained a difficult passage, or confirmed a doubtful point, could be briefly mentioned in a footnote reference. But the unprinted journals are another story. It might seem best to have published each of them completely; in the case of the Long Parliament, that was not feasible, nor even, I believe, wise. D'Ewes is so much fuller than any other account, if not fuller than all other accounts taken together, that to publish all of them would mean incredible repetition. It would be the worse because D'Ewes and Moore often availed themselves of one another's records, and even have identical material. And other accounts, such as Peyton and Harl. 1601, frequently tell in a few lines what D'Ewes has told, with precise detail, in perhaps one or two large pages. Not only do they often give the same material as D'Ewes, but they summarize much that is to be found in the same form, or even more fully, in the easily accessible Commons Journals.

Yet even the briefest accounts may have a sentence or a phrase to be found nowhere else. Moore may tell who initiated a motion; Harleian 1601 may tell who opposed it; Peyton may add a sentence that makes sense and connected thought out of a paragraph in D'Ewes's rough notes that had eluded comprehension; Palmer may make it possible to understand a difficult thread of argument about canon law that in D'Ewes is words and little more.

It seemed best therefore to do with the unprinted diaries other than D'Ewes what had been done with D'Ewes's, rough and smooth: to put into footnotes whatever seemed at all to add or differ, provided it is not to be found elsewhere in print, as in the Commons Journals. It was not merely a question of words and phrases. The various note-takers in the Long Parliament were likely to attend different committees in the afternoon. The reports of those sessions, if not to be found elsewhere (and usually they are not), have been added *in extenso*. Important speeches, where the steps in the close-knit argument are none too clear from a single note-taker or even from two note-takers, have been given in all the available versions. Some of my readers may possibly remember the "gospel harmonies" which used to be imposed upon the older children in Sunday-school. I cannot make the claim to have imitated them, for the plan here followed grew out of the necessities of the situation; but it is not inaccurate to call this volume a kind of "harmony" of the Long Parliament, for the period covered. I believe that future editors of D'Ewes will find themselves compelled to use the same plan. The method has disadvantages; it breaks the continuity of the other diaries, and it piles up footnotes. But it has at least this advantage: that the whole story of the Long Parliament, so far as we know it, unfolds itself consecutively. It is true that Gardiner has told that story. Yet curious-minded historians are sure to want more of it; they will wish to know how one speech led to another, how argument led to resolution and resolution to act. That such persons should readily be able to trace for themselves the order of events is worth something. If they will sometimes skip over the pages where D'Ewes says: "Then I stood up and spake," they will, I believe, follow the debates easily.

Time and space allow only the briefest comment on the various diaries. Of those printed, Verney and Northcote have long been known and used. Verney is particularly helpful about committees; Northcote adds to the narrative speeches unrecorded by others. Henry Townshend's brief jottings have been only recently published by the Worcestershire Historical Society. They add little, but supply occasional confirmation.

Most important of the unpublished diaries is that of John Moore, whose notes begin in February. It has already been observed that Moore and D'Ewes did some collaboration. Moore's diary is, however, very different in many respects and well rewards the pains of transcription. A diary more difficult to read it is hard to imagine. Written in a small notebook, in a fine hand, with many abbreviations of his own invention, his crowded page is worse than a cipher. That all my transcriptions are proof against error, I cannot hope. I can only say that I have read him and reread him again and again in order to arrive at the correct words.

Geoffrey Palmer's notebook of the first two months of the Long Parliament is in the Library of Cambridge University and was first mentioned by W. J. Archbold in the *English Historical Review.* The authorities of that Library were kind enough to let me have photographs of it. Palmer was not an unimportant member of the Long Parliament. He was particularly interested in questions of canon law, and adds not a little to our knowledge of the debates upon that subject.

The diary of Sir Thomas Peyton covers the first two years of the Long Parliament. Peyton summarized with skill, and he knew what to summarize; conferences and important speeches he noted very fully; most speakers he got the gist of in a sentence. The day's proceedings were evidently put together some days or even longer after the events recorded, but it was almost certainly based upon jottings made during the sessions; there is a skill in reproducing exact phrases that was more than memory. Peyton was unusual among diarists of this Parliament in his want of sympathy for what was going on. His royalist bias, it is true, appears only slightly in his account, but it is very evident in the marginal notes, made apparently in 1644. The diary has never been used by historians and was picked up only a few years ago by the Library of the University of Minnesota. Up to that time it appears to have reposed for a long while in some outbuilding of a Kentish country house.

Framlingham Gawdy's journal is, in brief, ill-spelled pencil notes. No diary for the total number of words adds more to the record. Gawdy put down little, but for that little he deserves the gratitude of historians.

Harleian 1601 I did not happen upon in the British Museum until I had been through first proofs of this volume. The account extends only from March 1 to April 10, 1641, and hence only the first twenty days are of use for this volume. But there is a surprising amount of the material for those days that deserved insertion in the footnotes. Who the writer was I do not know. That he was a member of four several parliaments means that he was one of about twelve rather obscure men. His fine hand, his odd individual letters, and his strange spacing I hope to meet again. So far, search has given only negative results: five of the twelve have been eliminated. Local archives offer probably the only hope of certain discovery.

After I had reached the stage of page proofs I ran across Rawlinson C 956 in the Bodleian. The manuscript is a small pencilled notebook, with minutes covering the days from Nov. 6 to 30, 1640. In the back are minutes of Jan. 29, 1641, and of several committees sessions, chiefly that of the Committee on Irish Affairs. The diary gives a very full account of events of that most interesting time in the Long Parliament, the first days. It adds not a little to our understanding of how Pym acquired his early ascendancy, it tells us more about the rôles played by Hampden, by Digby, Roe, and Earle. Very considerable excerpts from this diary I have put into Appendix B, not only so that the reader can see what the account adds to our knowledge, but so that he can trace more readily the exact course of events. Such occasional references to Appendix B as were possible, I have inserted in the footnotes. The Index will, I trust, make it possible to make full use of the diary.

In Appendix A, I have published a manuscript classified in the British Museum as "A Journal of the House of Commons." It is a record of some meetings of the Committee for Trade, a subject about which other sources give us little, and which may have some interest for the economic historian.

In editing the manuscript diaries I have not been bold enough to break with general usage, but have retained the old spelling. To spell as the author wrote serves possibly to individualize him; it is an aid to the student of pronunciation, and is no doubt a delight to the antiquarian. But such editing has its inconsistencies; no matter how closely one may attempt to follow the spelling of the author, one is forced to deviate from it. Abbreviations must be expanded, and there is no certain way to expand but in modern spelling. There is another difficulty. Hurried writers of notes tend to reproduce the look of a word rather than distinct letters.

Moore and Palmer are fond of running a word off into space so that it is well-nigh impossible to say just what spelling was intended. What can the editor do but resort to modern spelling?

In capitalization and punctuation, the case for modern usage seems even stronger than in spelling. To punctuate and capitalize the sentences in the manuscripts is of course to put the editor's interpretation upon them. But surely that is what an editor is for—to make sense out of the writing. Yet I have followed the capitalization and punctuation of the time as far as possible. D'Ewes's own journal presents only two problems. He makes a light dot or period, where he must mean a comma, and in such instances I have put in a comma. His capitals are not always distinguishable from his small letters, and he occasionally fails to capitalize at the beginning of what is certainly a new sentence. Where there was doubt about D'Ewes's capitals I have used small letters, but have always capitalized the first letter of a new sentence. With two of the other diaries I have much more difficulty. Geoffrey Palmer has almost no punctuation save that of the paragraph, and little capitalization. He is likely to capitalize an unimportant adjective in the middle of the sentence and to omit other capitals. Harl. 1601 strings clauses together with nothing between them, so that it is hard to say whether a given clause goes with the one before or after. Unfortunately the clause occasionally makes possible sense either way. To inject punctuation is to put the editor's interpretation upon the connection of clauses, and that interpretation may mislead the student of canon law, who is far more competent in matters of canons than the editor. But it was not possible to leave long passages in Palmer and Harl. 1601 wholly unpunctuated. In such difficulties I have put in commas at the end of every clause, so that the reader might make connections as seemed best to him; where there seemed a longer break I have inserted periods. In general I have made as little change from the texts as possible.

Private journals are of course only a part of the records of the Long Parliament. The Commons Journal is the most accessible of all the accounts and has been hence more often referred to in the footnotes than quoted. If I might for the moment serve as a reviewer, I would say that there are too many citations of the Commons Journals. Rushworth and Nalson are also available in many libraries and have been referred to chiefly for documents. They must often be criticized for errors in the order of events. *Speeches and Passages* and *Diurnall Occurrences* embody the "separates" and newsletters which stationers and scriveners distributed to a public willing to pay for news from Westminster. They are poor sources at best, but occasionally helpful.

About the use in footnotes of printed materials of the whole period of the early seventeenth century I have been guided by two considerations. The work has been done primarily for scholars of seventeenth-century history, most of whom of course are already familiar with the literature. But I have had also to bear in mind those in related fields who might wish to consult the work—students of law and political thought, of church history and canon law, of manners and of local history. I hope the volume will be of a good deal of use to such scholars; I have given a certain number of references for their assistance and I have had them particularly in mind in the making of the Index.

I have to thank Miss Anna Lane of St. Paul, Minnesota, who made the first transcription of the first two months of D'Ewes; Miss Jessie Donaldson, now of the University of Montana, who transcribed for me some folios in February of 1641; and Miss Gertrude Jacobsen, now of the College of Wooster, who made the first transcription of D'Ewes for the last part of February and for March. The final work of transcription has been my own, and such errors as will be found are mine. To the authorities of the Library of the University of Minnesota and to that University I am deeply grateful. Their generosity in supplying materials to a member of their staff made work on the seventeenth century possible. It was kindness beyond measure upon their part to allow one who had left them to profit at a distance by their resources and photographs. To my father, Professor J. O. Notestein of the College of Wooster, I owe suggestions and an important correction. To Dr. Frances Helen Relf of Lake Erie College, my colleague in former and future work upon parliaments, I am deeply grateful. She has given much time set aside for other parliaments in helping me to see this edition through the press. She has cut out unnecessary footnotes, she has made many suggestions as to matter, she has caught mistakes of fact, and she has given a much needed consistency to the form of the volume. To the Heckscher Fund of Cornell University I must express obligation for making possible her competent help. That Fund has also borne the expense of including additional matter, particularly Appendix B. I cannot end this paragraph without referring to the pains taken and skill exercised by the Yale Press in printing the volume.

That so large a body of historical material, so technical in character, could be printed at all is due to the special endowment of Yale University for the publication work of its Historical Department. It seems hardly necessary for an editor to state his obligation to those who have undertaken the trouble and expense of the publication. The obligation rests even more upon that body of scholars who are concerned with seventeenth-century English history. By their use of the volume such an undertaking must be justified. Sir Simonds would hardly have believed a prophecy that his journal would be printed by an American university. Yet there is a fitness in the fact. Sir Simonds was from Sudbury in East Anglia. From East Anglia came much that made New England. Saybrook was never so far as it seemed from Sudbury.

How far does the publication of D'Ewes and of his fellows add to our knowledge of the Long Parliament? His own journal adds little to the story as a story, because he has been so much used by Gardiner and by those who prepared the way for Gardiner. That the other diaries contribute to the story will, I believe, be evident to the reader of the footnotes. But for all other purposes, for the many aspects of history other than what happened next, the manuscripts of D'Ewes, and of course of the other diaries, are an unworked mine. It is hoped that this volume will make them more accessible.

Within the next few years I hope to be able to publish or arrange for the publication of the part of D'Ewes and of the other accounts which extends to the outbreak of the Civil Wars. About the parliament that functioned during the Civil War, a parliament for which the last part of D'Ewes must always remain the authority, I am not greatly concerned. A machine hitherto legislative was suddenly fitted to the purposes of carrying on war; it lost much of its character as an institution rooted in the past. But the parliament of 1640 to 1642, although radical in its bent, had a long past and was part of a connected story.

For the history of that parliament, and in particular for the history of the Commons as an institution, D'Ewes is invaluable. He had to do with a parliament which marked the culmination of a long period of development in method and procedure. The years from the beginning of Elizabeth to the opening of hostilities in 1642 are the decisive age in the growth of the Commons as a working body. It can hardly be said too often that the pre-Elizabethan House of Commons was a somewhat rudimentary body and that the Long Parliament was in many ways a complex modern organization. A knight of the shire in 1558 who stepped into a medieval Commons probably would not have felt much out of place, but a Commoner of 1640 would; he would be more at home at Westminster to-day.

It was in the years between that the enormous growth took place. The rapid extension of committees and of the work of committees; the hitting upon and utilization of that wonderful device, the Committee of the Whole; the enlargement of general committees into committees of the whole house; the evolution of a parliamentary opposition into the leadership of the Commons, a leadership that filched from the Privy Council almost without observation the initiative in offering bills and pressing them to passage—these and a score of other practices mark the beginning of modern parliamentary usage.

Hence the value of these diaries rests not so much upon their presentation of new isolated facts as upon their complete picture of the Commons in action at a time when that body had in some sense reached its growth. This is a subject that can be discussed adequately only in a comprehensive introduction, which I hope to put in the last volume.

I hope that there are students interested in the Civil Wars as such and in the Parliament as an administrative body, who will take up D'Ewes where I expect to leave off, at the outbreak of war, and have the courage to carry it on to the end. What with problems of smooth notes and rough, with the cipher of Yonge and the almost undecipherable Moore, the future editors will have their troubles. But I can promise this, I think, to possible editors: they will find that the daily following of the daily details of that revolutionary parliament will not only prove interesting, but will afford pleasure and inestimable satisfaction. The Great Curiosity, as a Frenchman has called it, will be ministered to. They will come to feel the form and pressure of the time, as brief chronicles could never give it; they will go in and out with Hampden and Haselrigge, with Pym, St. John, and Sir Harry Vane; they will listen to Cromwell, still obscure but most zealous; they will mingle with all manner of people around Westminster, with men high-minded and petty, with bores and gentlemen of insight and imagination, with antiquarians and men of rapid action, with lawyers and theologians, with country squires and aldermen, until that world becomes scarcely less real than ours and certainly no less entertaining.

A friend of mine is fond of saying that historical research is of no use, but that we do it because we enjoy it. Whether that be true or no, it is certain that it is its own reward.

W. N.

44 Mecklenburgh Square, London,
November, 1922.

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THE JOURNAL OF SIR SIMONDS D'EWES

THE JOURNAL OF
SIR SIMONDS D'EWES

FROM THE BEGINNING OF THE LONG PARLIAMENT TO THE OPENING OF THE TRIAL OF THE EARL OF STRAFFORD

A Journall of the Parliament begunne Nov. 3. Tuesday a° D$\bar{\text{m}}$ 1640. a°. 16° Caroli Regis, collected and gathered for the most parte of it by mee, Sir Simonds D'Ewes of Stowhall in the Countie of Suffolke, knight and Baronet; being one of the Burgesses of the Towne and Burrough of Sudburie in the same Countie, being at that time High Sheriffe of the saied Countie, when I was elected and by myselfe returned.[1]

Nov. 3. Tuesday, 1640.

The Parliament begunn this day.[2] [*blank*]

Nov. 5. Thursday, 1640.

William Lenthall Esquire, the Speaker Elect, was this day presented to his Majestie in the Lords howse about [*blank*] of the clocke in the afternoone.

The saied Speaker elect first desired to be excused [*blank*]

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[1] This introduction and the fragmentary notes for Nov. 3 and Nov. 5 are in D'Ewes's handwriting, probably filled in by him after his arrival on Nov. 19. From the 6th to the 19th the Journal is written by John Bodvile, member for the county of Anglesey.

[2] The Long Parliament met for the first time on this day and the King made the opening address; he was followed by Lord Keeper Finch, who spoke at great length on the state of public affairs. Then the Commons retired to choose their speaker. Clarendon says that the King had arranged for the election of Sir Thomas Gardiner, recorder of London, as Speaker, but that on Gardiner's defeat in the City, and in other places, Charles at the last moment chose William Lenthall. Lenthall was nominated by the elder Vane, elected by the Commons, and approved by the King on Nov. 5. See Clarendon's comment on Lenthall, *History of the Rebellion and Civil Wars in England* (Macray ed., 1888), I, 221 (hereafter cited as Clarendon). An account of the business of this day is to be found in *Commons Journals* (hereafter cited as C.J.), in Rushworth, *Historical Collections* (1721), IV, 1-17 (hereafter cited as Rushworth), in Nalson, *Impartial Collection of the great Affairs of State* (1682-1683), I, 481-489 (hereafter cited as Nalson). The speeches of the King and Lord Keeper will also be found in *Speeches and Passages of this great and Happy Parliament* (1641), 1-2, 14-24 (hereafter cited as *S. and P.*).

The Lorde Finch, Lord Keeper[1] [*blank*]

The Speaker then proceeded againe and spake in effect following.[2]

f. 1b] The King himselfe saied:[3] [*blank*]

Nov. 6. Friday, 1640.

Sir Miles Fleetwood moved[1] for a fast to the same persons and place and soe the Records were reade of the last Parliament.

Sir Robert Harlow[2] moved that there might bee a newe Committee for the fast, and that wee ought not to take notice of the Committee in the last Parliament.[3]

It was ordered that a message should bee sent to the Lords about a fast and a communion.

The Messenger was Sir Thomas Roe, first a fast for the howses of Parliament and then for the whole Kingdome.

A Committee of Privilidges was settled[4] but all those whose Elections were questionable have noe vote in the Committee[5] although they bee nominated to bee of the same Committe.[6]

It was ordered that a Warrant should goe to have a Writt from the Clarke of the crowne for the Election of Knights for Cambridgeshire the former Writt being come too late.[7]

It was ordered that a Committee of the whole howse should sitt every afternoone. Upon Munday for Religion: upon Wednesday for grievances, upon Friday for Courts of Justice, a Committee for Trade upon Tewsday next and soe forward, a Committee of the whole howse for a Committee for Irish affaires,[8] as MR. PYMME saied that all the subiects of Ireland have power to come here. MR. GRIMSTON saied it appeares soe by 20 Journalls: for a Writt of Errours was brought of busines in Ireland[9] here in the Kings Bench: a Committe for Irish affaires upon Thursday a Committee of the whole howse: after appeale had.

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[1] For this merely formal procedure see Rushworth, IV, 17.

[2] See Rushworth, IV, 17-19, and *Cal. St. P. Dom. 1640-1641,* 248.

[3] "The King interpreted a passage in his former speeche att the opening the parliament wherein hee mentioned the chasing forth the Scottishe Rebells. Yett had treated with them by name off subiects under the greate Seale. For hee said as they did Invade they were rebells But respecting the treatie and the Intended Peace were his subiects also. Hee professed hee resolved this parliament onelie to reforme greivances; concerning the Scottishe business might have beene composed by the lords treatie." Geoffrey Palmer, Journal of the House of Commons at the Parliament begunn att Westminster, 3 Nov. 1640. Cambridge MS. KK 6, 38. Rotograph copy in the University of Minnesota Library, Gerould's *Sources of English History of the Seventeenth Century,* no. 135a. Hereafter cited as Palmer. The folio reference in this case is 4.

For the formal version see *S. and P.* 3-4. For a slightly variant and fuller version of the same see *Cal. St. P. Dom. 1640-1641,* 246-247.

[1] Bodvile's writing begins here.

[2] No doubt Sir Robert Harley.

[3] "A committee apointed this afternoone to prepare the message upon veiew off the old presidents and proceede upon those and other heades as they should thinke fitt." Palmer, f. 5.

[4] On motion of Sir Walter Earle. Palmer, f. 5.

[5] On motion of Sir Francis Seymour. *Ibid.*

[6] A list of 88 members of this committee is to be found in C.J. II, 20-21. Rushworth gives 47.

[7] "Ordered, a warrant to issue under Mr Speaker's hand to the Clerk of the Crown for a new writ to be sent to the sheriff of Cambridgeshire, for election of the knights of that shire; because no county day did intervene between the receipt of the writ, and the appearance in the parliament." C.J. II, 21. Palmer (f. 6) says the "countie court falling after the 1 daie off parliament."

It was ordered that the Committee of privilidges should set this afternoone, and too morrow in the afternoone the Committee for Irish affaires.[10]

f. 2a] Nov. 7. Saturday, 1640.

A peticion of the Freeholders of Leicester of Halfrids[1] disgracefull termes against Sir Arthur Hasilrigge Serieant at Armes; that for this Halfrid as a delinquent a Committe might bee appointed to viewe the Journalls and records of the howse.[2]

SIR THOMAS ROE moved to have the records of the howse to bee kept under locke and key and this was referred to the former Committee.[3]

MR. HAMPDEN[4] presents Alex[ander] Gennins[5] his petition concerning shipp-money. Hee saied because hee was demanded ship-mony and answeared that the best way to gather it was by consent of Parliament. For this hee was committed to the Fleete by the Lords of the Councell for scandalous speeches against his Majesties Goverment and soe for not paying the ship-money hee was still kept in the Fleete notwithstanding his motions at the Kings bench: and particularly hee complained against Sir John Bramston Lord Cheife Justice of the Kings Bench, and the rest of the Judges of that Court, and soe hee and his Sollicitor brought his action into the Exchequer; for which his Sollicitor was sent for and kept in the messengers hands.

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[8] Rushworth (IV, 20) says that this committee was to meet every Thursday.

[9] "A committee to be apointed for Irish affaires off the whole howse was propounded. That those were off opinione for the whole house should say I. The others noe.

"Resolved the I should goe out. The house being divided and they were the greater number." Palmer, f. 7.

"In the debate; Itt was moved that Ireland had Parliaments to receive there owne greivances. But the generall opinion that they might bee hearde here for A writt off error lies off A Judgment there in the Kings Bench here much more A redress in Parliament." *Ibid.*

[10] See also C.J. II, 21, and Rushworth, IV, 20.

[1] Richard Holford, who after the petition was read was ordered to be sent for as a delinquent. C.J. II, 21.

[2] Rushworth misdates this petition as Nov. 9. "The humble petition of the freeholders and inhabitants of the county of Leicester was read, complaining of Mr. Richard Holford, for casting out words in disgrace of Sir Arthur Haslerig Baronet." Rushworth, IV, 38. See below, 95, note. *Cf.* Sir Thomas Peyton, Journall of a Parliament holden at Westminster. Begun the third day of November 1640, f. 2. Peyton's journal is to be found in the Library of the University of Minnesota.

[3] Peyton (f. 2) mentions a further function of the committee, "to consider of some place, for the future preserving of the Records and books of the house: whereas formerly the Clearke of the Parliament only kept them, and were left to the executors and soe became lost and imbezeled." On this point see Notestein and Relf, *Commons Debates, 1629,* Introduction, xiv (hereafter cited as N. and R.).

[4] John Hampden's resistance to ship money had rendered him at once one of the leaders of the opposition to the King. On Nov. 6 the Commons, in designating work for the Committee of Privileges, had voted that "the Buckinghamshire election [might be] excepted, which concerned Mr. Hamden." Palmer, f. 6.

[5] Jennings. See Rushworth, IV, 20.

MR. PYMME[6] presented two peticions of Mris. Burton and Mris. Bastwicke,[7] in the behalfe of their husbands imprisoned in severall Iles. The Peticions being reade which are in print MR. PYMME moved that the saied Mr. Burton and Doctor Bastwick might bee sent for.

SIR THOMAS GERMYN Controller of the Kings household saied that hee would not meddle with the meritt of the cause and desired that nothing might bee done before the King was consulted with.

SIR HENRY FANE[8] Tresurer of the Kings howsehold, saied nothing to the meritt of the cause, the peticion in it selfe was heavie and trenched much upon the state only that Mr. Pymme spake by the [*blank*] of the meritt not knowing the true information of the busines; hee denied that hee remembred any sending of the two by order of Counsell and desired satisfaction might bee given before they bee sent for by the Kings Counsell and desired not to use too much haste.[9]

MR. HAMPDEN saied hee hoped this sending for them would not turne away his Majesties favour from them and that now there was noe more intended but to desire to have only the persons in a way to make their complaints.[10]

MR. KING[11] saied that his Majestie had been pleased to give us full power and authority to search into the grievances of the kingdome and therfore hee was sorry to see his Majesties name used to interupt hinder them from searching into the said greivances and desired that it might bee no more used for the time to come.

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[6] John Pym and John Hampden begin their leadership of the Commons with little delay.

[7] The punishments meted out to Burton, Bastwick, and Prynne are well known. For details see *D.N.B.* under their respective names. For the petitions of Mrs. Burton and Mrs. Bastwick see *Cal. St. P. Dom. 1640-1641*, 249-251. Peyton (f. 2) makes Pym say: "That for a meere formality of the Court, which was that nott having counsell there, theire cause was taken *pro Confesso,* and soe ther censure proceeded beyond all sence of moderation and Justice. 2. They were carried to the lost prisons, viz. the Islands, before the sentence first given. 3. They were separated from ther wifes which is nott in the power of man to doe." *Cf.* Palmer, ff. 10-11.

[8] The elder Vane was secretary as well as treasurer.

[9] "That the commitment was by course off justice; therefore fitt to have the Kings Counsell, and Tyme given to receave some satisfaction before presently sent for. Els may anticipate the Kings favour, or precipitate before hearde." Palmer, f. 11.

[10] Peyton (f. 2) makes Hampden say: "Hee desired the house might receive satisfaction from the Counsell in the carriage of the businesse of their committment, Butt moved they might nevertheless bee sent for to make account of their owne wrongs, if they have any."

[11] Peyton (f. 3) attributes this speech to Kirton.

Others[12] spake to the same matter, and then it was ordered that the saied Mr. Burton and Doctor Bastwicke should bee sent for immediately to prosecute their owne causes in Parliament.[13]

Mr. Prinn hath petitioned his Majestie.[14]

MR. MAYNARD[15] reported from the Committee of privilidges concerning a Burgesse for Norwich. Mr. Cattlin was duely chosen but only the question was because Mr. Cattlin was noe Burges.

It was ordered that Mr. Cattlin should bee admitted but the Sheriffe was not to bee punished because there was noe corruption.[16]

A Petition for Harfordshire was preferred by Mr. Capell[17] 1. against Innovation in Religion. 2. by abuses of feodaries and Escheators which was noe profit to the King. 3. by which was no profit to the Kinge. 4. Monopolies. 5. by ship-money. Their desire to have Parliaments more often. Grievances. 1. Not having Parliaments and breaking upp the last. 2. Cannons lately made. 3. The unsufficient and unmeete Ministrie. 4. The great abuse of ordinances. 5. [*blank*] Sermons in the afternoone. 6. The oath *Ex officio*.[18] 7. Unduely raising of Militarie charges. 8. The pressing of men. 9. The Pattentee of Saltpeter. 10. The ignorance of the Traine band, in the discipline, they desire lawes to bee made for military affaires.[19] 11. Inquirie for the fomenters of the calamities of this Kingdome that they may bee punished.[20]

f. 2b] MR. GRIMSTON[21] shewed first what had been done the last Parliament. Concerning the Kings supplie.[22] On the other side the greivances of ours were great. And soe wee concluded to give nothing before our greivances bee settled. And soe hee related the whole passages of the last Parliament, and desired reparacion against him the Speaker Sir John Finch, that violated our privilidges that Parliament. 2. What hath been done since the last Parliament, nothing for their repaire. Gentlemens Studies and pocketts were searched, their bodies imprisoned. A reformation to bee in the Starr-Chamber.[23] A Synod and a new Oath. The matter of the Oath. Sweare a damnable heresie,[24] as all things contained in the discipline was fitt for salvation, and this an anticipation to sweare never to alter, and to bee *Jure divino*. The function is divine but the iurisdiction is humane. There is neither divinitie nor charitie in it; and they desire to advance their hierarchie other things they did there will bee properer to bee done here then with them: and the punishment of not granting subsedies out of f. 3a] Parliament[25] and they that durst doe this durst do more if they could. Who have given encouragment to preaching printing etc., and who had advancement but superstitions corrupt in their doctrine and vitious in their lives but these Arminions and Popish affected persons. And what helpe have wee had of all our grievances for all our petitions. Judges have overthrowne the Lawe and Bishops Religion[26] and some of both have been the authors of all these miseries and wee hope wee shall have the like punishment against them as against Trisilian[27] and other predecessours.[28]

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[12] Peyton (f. 3) gives the following speeches:
"Sir Francis Seymour would have 'em sent for.
"Mr. Sollicitor would have 'im sent for, butt first the house to advice better.
"Mr. St. John mooved they might bee sent for and alleadged Presidents.
"Sir Thomas Roe. Hee thinkes it was the Court of Justice, and nott the King neither the Councell that committed them."

[13] C.J. II, 22. This ordered upon Sir Robert Harlow's motion (Peyton, f. 3) that it might go to the question, "and after propounding it was putt: and all were yeas and not one noe." "Mr Pymme said, The way must bee by warrant from the Speaker: soe it was."

[14] C.J. does not mention the petition of Prynne at this point.

[15] John Maynard, chairman of the Grand Committee for Privileges and Elections.

[16] *Cf.* C.J. II, 22. "After this order reade Mr Catlin was callde in and did take his place." Palmer, f. 12.

[17] Arthur Capel, who on Aug. 6, 1641, was raised to the peerage and later fought for the King. He was beheaded by the parliamentary party in 1649. For a full account of him see A. Kingston, *Hertfordshire during the Great Civil War* (1894), 103-112.

[18] Peyton (f. 3) adds: "And the Churchwardens oathe."

[19] Peyton (f. 3) makes the petitioners ask "to sett rules for the power of deputy Lieutenants."

[20] The Victoria *History of the County of Hertford* (1908), II, 28, gives in a footnote (from *B.M., E.* 133) as the petition which Capel presented a later petition which was brought up in the following January. See version in App. B, p. 529, where I have put extracts from another MS. diary, Rawl. C 956.

[21] Harbottle Grimston's speech is to be found in Rushworth, IV, 34-37, and in Nalson, I, 508-510, but is misdated as Nov. 9.

Sir Benjamin Rudiard[29] spake first of Religion and abuses of poore Ministers for not reading the Morris booke. They have a minde to quell preaching and to drawe the Religion to olde Ceremonies this is the secret worke in hand as Dr. Heylin.[30] Let not them say that these are the say-ings of factious people, and Sancta Clara saieth that if Puritans were away this Religion and his would agree. And so they have branded all good Protestants under the name of Puritanes.[31] Some imagining which way wee were tending striving to forerunne us turned papists.

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[22] "A subsidiary Aid and Supply was propounded and many Arguments used to give the precedency before all other matters and considerations whatever." Nalson, I, 509.

[23] "An information was drawn, or, at least, directions given for the drawing of it against them in the Star Chamber." Nalson, I, 510.

[24] "They would have us at the very first dash swear in a damnable Heresie that matters necessary to salvation are contained in the Discipline of our Church." *Ibid.*

[25] "For a Synod . . . to take upon them the boldness thus out of Parliament to grant Subsidies . . . I daresay the like was never heard of before." *Ibid.*

[26] This is just part of a story Grimston tells that he had heard from a judge in the King's Bench (Nalson, I, 511), a story Gardiner made use of. (1899, Cabinet ed., IX, 224. This edition will always be cited hereafter.)

[27] Sir Robert Tresilian was appealed of treason and hanged in 1388 for giving an opinion that the measures taken against the King's power in 1386 were illegal.

[28] Peyton notes in his margin (f. 3): "This speech gett a good copy of. Mr Grimston spake long and well. Gett the speeche. Said hee: The Judges overthrowe the Lawe and the Bishops the gospell. This hee said, hee heard a Judge say."

[29] For Rudyerd's speech see Rushworth, IV, 24-26, and Nalson, I, 491. *Cf. Cal. St. P. Dom. 1640-1641,* 251. See Gardiner's comments on it, IX, 224-225. Rudyerd is evidently referring to the Declaration of Sports published by James I in 1618 and republished by Charles in 1633.

[30] "Which Dr. Heylin hath so often celebrated in his bold Pamphlets." Rushworth, IV, 24. The bold pamphlets are probably *A Coale from the Altar* (licensed Mar. 5, 1636), in which he attacked Williams's views about the position of the Com-

Sir Francis Seimer. Groaning under great burthens. If wee should suffer this it were to betray our duty to the King, and our faith to the Cuntry, and to impoverish the Crowne. The King hath been too provident a King and then who are those that spend. Had they that have been trusted been as provident for the King as for themselves they had not been so rich but the Kings Coffers more full the 10th part of proiects the King had not. And the Counsell have not been good or else they would not suffer an Army to come to this Kingdome. One may see what danger wee are in for religion Jesuites and Priests openly to walke abroad and particularly. A priest that was taken how at first slighted will in due time bee examined. What incouragement is this to our papists. Noe lawes in Execution. For papists often to goe to Masse. A complaint in our Church Pride Covetuousnesse and slouth more Church dignities then sermons preached betweene a Lazy Monke and a lazy Preist: noe difference and say to an honest man what thou art hee that troubles us, and when they preach, only their owne invectives sufferings in goods and persons our liberties taken from us that is a civill death. None can say hee is a free borne subiect, things inforced out of will more then of our lawes, noe: by no lawe. Now a question whether a proiector bee a base fellow, but every proiector will finde out his owne Master. Law of Colensio the newe Innovatour with a halter about his necke if against good then to bee hanged.[32] The poore King and subjects poore by ill counsell. Parliament the great Phisitian of the Commonwealth seldome Parliaments, and dissolucion of them which is the cause of all mischief. The King hath suffered as much as wee. And I desire that hee may see and heare it with his owne eyes and eares, and then wee may make him greater than any; otherwise looke upon good of all without any ends.

Mr. Pymme[33] moved for a reformation etc. finding out authors and pun-

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munion Table, and *Antidotum Lincolniense,* an answer to Williams's anonymous book, *The Holy Table, Name and Thing.*

[31] This is amplified in Rushworth (IV, 24): "Whosoever squares his Actions by any Rule, either Divine or Humane, he is a Puritan; whosoever would be governed by the King's Laws, he is a Puritan; he that will not do whatsoever other men would have him do, he is a Puritan: Their great work, their Masterpiece, now is to make all those of the Religion, to be the suspected Party of the Kingdom."

[32] "Named a Custome, ect. That if anyone propounded any new thing hee came with a halter about his neck." Peyton, f. 3. Not Colensio, but Charondas. *Diod. Sic.* XII, 17.

[33] Peyton (f. 4), Palmer (ff. 15-18), and D'Ewes all give full accounts of this speech. See also *S. and P.* 458-500. Clarendon (I, 222-223) summarizes Pym's speech and tells an interesting interview between Pym and himself just as Parliament began.

The contemporary diaries leave no doubt in one's mind that the speech was made on this day, though Clarendon places it on the eleventh, just before Clotworthy's relation.

ishment of them.[34] Actuall declaracion of offences needes no statutes and that is a steppe to reformation. A designe to alter the Kingdome both in Religion and goverment[35] this is the highest of Treason this blowes upp by peece meales[36] and almost goeth thorough their ends. This concernes the King as well as wee, and that I say with reverence and care of his Majestie. Soe there are many heads of grievances. 1. The Papists partie alter Religion,[37] and this is by setting difference betweene the King and his subiects, and Tenetts of Papists undermine our Religion. 2 pt. The corrupt parte of our clergie[38] that make things for their owne ends and with an union betweene us and Rome. 3 pte. Agents for Spaine and other Kingdomes by pensions to alter Religion and goverment.[39] 4. Those that are for their owne preferments and further all badd things are worse then papists those are willing to runne into Popery.[40] Stepps of these things that have proceeded in motion first softly now by strides which are neare their ends if they bee not prevented.[41] Designes carried upon fowre feet. The first foot is,[42] 1. Ecclesiasticall Courts.[43] 2. Discountenancing of forward men in our Religion.[44] 3. Countenancing their owne partie or else noe promotion.[45] 4. By negociating Agents from hence to Rome, and from Rome to this place to extirpate our Religion,[46] proofe will appeare.[47] 5. Frequent preaching[48] for Monarchy,[49] Doctor Beale[50] and others. 2 Foote

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[34] "That the reformation must bee by finding out those that were the meanes off the Breache off the Lawes." Palmer, f. 15.

[35] "Hee will proove that there was and is a designe to alter the state of our churche and Commonwealthe." Peyton, f. 4. "The designe to destroie both." Palmer, f. 15.

[36] "There are divers that concurr but are not the plotters and contrivers. Wee must looke after the heades off them." Palmer, f. 15.

[37] "They cannot consist in a medium; itt is the religion they profess, enioines them to itt." *Ibid.*

[38] Palmer (f. 15) makes Pym give as his second head: "Those that come neare Papists, that take in what they can to advance their pride; and profess union." Pym says, according to Peyton (f. 4), "A corrupt party that to serve their owne greatnesse and pride doe protect and favour Papists, though openly they professe nott Popery themselves."

[39] "Agents and Pensioners to forraigne States, who see we cannot comply to them, if we maintaine our Religion established, which is contrary to theirs; here they intend chiefly the Spanish white gold works which are of most effect." *S. and P.* 459.

[40] "These would lett in poperie and Turcisme too." Palmer, f. 15. "Favorites such as for promotion prize not conscience, and such are our Judges spirituall and temporall; such are also some of our Councellours of State." *S. and P.* 459. These words —as so many of the words in the versions presented in *S. and P.*—ring as if they had been written afterwards.

[41] "Out of this mixture of common enemies they have proceeded by Stepps. Att first they did creepe; now they goe on and fle." Palmer, f. 15.

[42] "The first Foote is ecclesiasticall." Palmer, f. 15.

[43] "Innovations in Religion." *Ibid.*

[44] "Persequuting in the Highe Commission." *Ibid.*

[45] "Preferring those of the popish waie, manie seeing noe other waie of preferment have undertaken that, tho against there opinions." Palmer, f. 16.

[46] "Sancta Clara came out to that purpose." *Ibid.*

[47] "And this to bee prooved." Peyton, f. 4.

[48] Palmer (f. 16), "Bookes and preaching that tende that waie and sett descention

Policy for state and Courts of Justice.[51] 1. The Counsell endeavouring to make difference[52] between King and people by taxes[53] against Lawes and wrong waies. Noe proceedings[54] Judges were chidden:[55] wee granted[56] habes corpus: in the Kings Bench and wee were well chidden for our f. 3b] labour. 2. By keeping the King in constant necessitie,[57] and soe[58] that hee might bee for them still noe imputation to bee laid upon the King for any irreguler actions but upon them that hee intrusted,[59] etc. 3. Arbitrary proceedings of Courts of Justice,[60] Lawe and Presidents were nothing,[61] expunging of matters,[62] all defence of the Subiect taken away for the disolution of the Kingdome. 4. To make a difference between England and Scotland,[63] a Sermon preached in the North before the King to make an agreement between Popery and our Religion, the particion wall must bee pulled downe[64] which was the Puritans. The Scots have been the first authors[65] of all. 5. By misguiding the Kings approbation.[66]

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betwene King and state." From what follows in Palmer, Pym evidently made 6 points in the "first Foote."

[49] "Preaching for absolute monarchy that the King may doe what hee list." Peyton, f. 4.

[50] Probably Dr. William Beale of Paulerspury, Northamptonshire, against whom articles were later (Aug. 6, 1641) exhibited. See *B.M.* catalogue, *sub* Beale, Wm.

[51] "Another Foote is in politicall state." Palmer, f. 16.

[52] "To foster jealousie." Palmer, f. 16. "Cherishing dissention." Peyton, f. 4.

[53] "Counselling bringing taxes." Palmer, f. 16.

[54] "Stopping course of justice." *Ibid.*

[55] "Chiding of the judges." Peyton, f. 4. "Chiding, threatening." Palmer, f. 16.

[56] Before the word *wee* should be inserted from Peyton (f. 4): "For the Judges themselves said." Palmer (f. 16), "Judge." And the version of Pym's speech given in *S. and P.* (459) refers to but one judge. That version is at this point almost unintelligible. No doubt this version was taken from a manuscript "separate" got out by stationers and sold by them, and later printed. On this practice and the use of the word "separate" see N. and R. Introduction.

[57] After *necessitie,* Palmer's version (f. 16) of Pym's speech adds: "To depende on them," *i.e.,* presumably his Council. The "separate" (*S. and P.* 459) says: "That he may seeke to their counsells for reliefe; to this purpose, to keepe the Parliaments in distaste, that their counsells may be taken." Probably after this came the words, "Iff hee will change his counsell and course wee shall see him as flourishing as any his predecessors. By these meanes they propounde that hee getts more by proiects then parliaments." (Palmer, f. 16.) And then from *S. and P.* (500), "as a woman that used herselfe to poyson could not live with good meate. Search the Chronicles and we see no King that ever used Parliament, was brought to this want."

[58] There is a sentence omitted here and it is difficult to remake it.

[59] Possibly after these words came the words in Peyton (f. 4): "To abuse the Kings truste is the highe point of treason."

[60] "The Starr Chamber, request [*i.e.,* the Court of Requests] Marshalls court arbitrarie." Palmer, f. 16. *Cf.* Peyton, f. 4.

[61] "We have all Law left to the conscience of a single man." *S. and P.* 500.

[62] "Depositions expunged. Demurrers overruled in private." Palmer, f. 16.

[63] "By some in greate place amongst us." Palmer, f. 17. "And hath risen from divers counsells in England." Peyton, f. 4.

[64] "Before unity could bee." Peyton, f. 4. *S. and P.* makes nonsense of this passage: "The pertition wall is only unity."

[65] "The Scotts all called so" (*i.e.,* as Puritans). Palmer, f. 17. Palmer adds here:

The 3d Foot. 1. Discontent and breach of Parliaments.[67] Hee would not mention the breach of old privilidges but late instances in newe, as Mr. Crewes case[68] the Clarke is bound not to deliver any petitions[69] nor soe any member.[70] If no safetie here then no where.[71] 2. Great slanders in the declaration[72] for which hee desired reparation. The King tooke it upon creddítt of others hee never sawe it.[73] 3. Ingraciating of Papists and saying they are the best subiects[74] to bring the King in love with them. 4. By moulding the Irish goverment into an illegall course,[75] with intent to doe here etc., or soe wee to have interest with them, wee are all the same subjects and noe new thing.

The 4th Foot. Military stepps. 1. Puting Papists or suspected persons into command of Armyes. 2. Power to Papists to muster by commission.[76] [*blank*]

5. To bring Souldiers[77] from beyond sea and indeavours have been and happily are but that meanes are wanted to doe it. Noe account of Span-

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"And did nott all these distempers begin by endeavor of Innovations there; God turnes this to a blessing to the Kingdome and Kinge; and wee shall learne to prevent."

[66] "They disguise all this by the Kings Honor. But the doing a greater reproache then finding fault with things that have beene done. For the Authors charges to bee brought against them." Palmer, f. 17. "Deceiving the King with matters seeming for the profitt and honor of his Majestie and the faultfinders they call disturbers of the State." Peyton, f. 4.

[67] "Breaching and dissolving of Parliament and priviledges of Parliament." Peyton, f. 4. "The suddaine dissolving of Parliaments and punishing of Parliament men, all to affright us from speaking what wee thinke." *S. and P.* 500. "Breaches of parliament and want of parliaments. Synce the last parliament priviledges broken." Palmer, f. 17.

[68] "As Mr. Crew was committed after the last Parliament for nott delivering of the petition in his Custody." Peyton, f. 4. "One was committed for not delivering up the Petitions of the House." *S. and P.* 500. Crew, chairman of the Committee on Religion in the Short Parliament, had been committed to the Tower for refusing to deliver to the clerk of the Commons on the command of the King "all such petitions, papers and complaints as he received." *Cal. St. P. Dom. 1640,* 142, 156.

[69] "A member committed for not delivering up petitions, they ought not to bee delivered. The clarke ought not." Palmer, f. 17. As to the clerk's obligation see N. and R. Introduction.

[70] As to the obligations of members see *idem.*

[71] "Petitioners must have safetie here or noe where." Palmer, f. 17.

[72] "Then a declaration which slandered our proceedings as full of lyes as leaves." *S. and P.* 500. "The breake by Slanders upon the last parliament by the declaration 16 or thereabouts I have note." Palmer, f. 17.

[73] "Iff the kinge see itt hee was misinformed by him that had the doing." Palmer, f. 17.

[74] "And that they are willing to beare all burdens and Joyne with him in all Courses," added. Peyton, f. 4. "They contribute money to the war which the Protestants will not do." *S. and P.* 500.

[75] "Into a fiery and violent forme which might in time bee a patterne for England." Peyton, f. 4. "To such a forme as may bee a president to alter this. If a subject can doe this what may a kinge." Palmer, f. 18.

[76] "Leave given to papists to have armes and muster men in ther houses. Itt will bee prooved." Palmer, f. 18. Peyton (f. 4) is almost verbally the same.

[77] "There is grounde off enquirie concerning Billitting Soldiors and the endeavour to bring in Strangers into the Kingdome." Palmer, f. 18. "None more strong in Armes

iards comming here.[78] Great iealousies. 6. The Irish Army to bring us to a better order,[79] wee are not fully conquered.[80] The 4th foote. Papisticall bookes many active men live here and are agents, and judicatories[81] nunneries and Colledges[82] are here for this foot have gone farre.[83] Hee moved that there might bee a settled Committee[84] to finde out the danger the King and Kingdome is in.[85]

Mr. Bagshawe.[86] Forrests when never any Deere fedd there. Depopulation when never any Cottage[87] was built and Justice they must have or else nothing will doe good for us.[88] A Gentleman hath been in the High

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then they, to whom their Armour is delivered contrary to the Statute. Their endeavour is to bring in strangers to be Billited upon us." *S. and P.* 500.

[78] "The Spanishe fleete in such a tyme greate groundes of jealesie." Palmer, f. 18. "The great Navy of Spaine carryes an ill sence, and to this houre I could never learne what to make of it, nor anybody else, I could heare off." Peyton, f. 4. "We have had no accompt of the Spanish Navie." *S. and P.* 500. As to this suspicion see Gardiner, IX, 230.

[79] "Itt may bee enquired and evidence will bee off itt beyond probabilitie of bringing in Irishe Soldiors." Palmer, f. 18. "And now our fear is from Ireland." *S. and P.* 500.

[80] "It hath beene said boldly by some, that wee are nott yett conquered, and therefore an Irish Army was intended to bee transported hither." Peyton, f. 4. Here is the first hint of the main charge against Strafford.

[81] "Jurisdictions." Palmer, f. 18.

[82] "Many concealed nunneries and houses of religion." Peyton, f. 4.

[83] "This Foote goes under grounde and must bee enquired. There is a storie of tracing him to the Denn that went backward. Some must bee punished; others have animadversions." Palmer, f. 18.

[84] "Hee moved a committee may bee named for these enquiries and to finde out Authors and they to receave punishment." Palmer, f. 18.

[85] A close comparison of the speech as given in D'Ewes, Peyton, Palmer, and *S. and P.* reveals extraordinary differences in wording. D'Ewes is the fullest, but both Peyton and Palmer are excellent note-takers, quick in getting the main points. The speech as given in *S. and P.* is obviously not from a copy released by Pym but from very incomplete and careless notes. A scrivener has put together the speech from the notes and memory of some inaccurate member. That member is better at recalling the divisions than he is at reproducing the wording.

[86] "I had rather act then speake in these businesses when I consider what was did by these 4 [Grimston, Rudyerd, Seymour, and Pym] before. *Flere magis liquet* [*libet* according to *S. and P.* 345] *quam loqui.* This may bee the apointed tyme to restore our Religion as att first and our lawes. A riche people must have ease in there conscience [ease], in there estates from Forest where never Deare fedd." Palmer, f. 19. "To make a people rich they must have ease and justice. Ease in their Consciences from the bane of superstition, from the intolerable burthen of innovation in Religion and from the racks and tortures of . . . new fangled Oaths. . . . They must be eased in their lands from Forrest where never any Deer fed." *S. and P.* The *S. and P.* version of Bagshaw's speech is evidently one "written up" afterwards from the preliminary notes and probably given out by Bagshaw himself.

[87] "From depopulations where never any Farm was decayed, and from inclosures where never any hedges were set." *S. and P.* 346.

[88] "Iff they have all these and have not Justice They can nott subsist. The King is *Fons Justitiae* and hee committs itt to the Judges. And trusts them yet not without an oathe; so terrible that A Judge trembled to thinke they should doe equall justice to all; without delaie, and how this have beene done wee have hearde, wee have felt." Palmer, f. 19. Peyton, who begins the speech here (f. 5), gives the same idea in briefer form. And *cf. S. and P.* 346.

Commission five yeares and soe is still for putting his hatte on in sermon time.[89] And for the Oath *ex officio* it is *Carnifex*[90] *Conscientiae.*

Mr. Crew saied hee delivered petitions to the Clarke of the Parliament only.[91]

November 7.[1] Saturday, 1640. Post Meridiem.

The Irish Committee. My Lord Mountnorris his petition.[2] The Copy of Judgement of death against my Lord Mountnorris. A counsell of warre was called purposely to arraine my Lord Mountnorris by my Lord Deputie in time of peace when the Courts of Justice sate, and much about the Parliament time.

Mr. Pymme saied if wee consider divers points of this petition and papers a man would thinke wee lived rather in Turkie then in Christendome and moved for a private committee.[3]

Sir William Pennyman[4] was excepted against to bee of the Committee and by president as Sir Maurice Abbot[5] was excepted against but yet hee Sir William was suffered to bee of the Committee[6] which setts upon Thursday next.[7]

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[89] "The highe commission when I attended them in my own cause and a gentlemans which yett depends for not putting off his hatt in the sermon tyme." Palmer, f. 19. *Cf.* Peyton, f. 5. The gentleman was a "deare friend of mine, sometime Knight of our Shire." *S. and P.* 347. By a process of elimination one may hazard the guess that this friend was possibly Sir Francis Vincent of Stoke D'Abernon, Surrey.

[90] "Carnificina." Palmer, f. 19.

Bagshaw closed with a motion that the "Statute of Monopolies might be made a felony or Praemunire at least." Peyton, f. 5. "That they might suffer death or punishment that infringe the statute of monopollies and petition of Right." Palmer, f. 20. *Cf. S. and P.* 347-348. J. D. (*Civil Warres of Great Britain and Ireland,* 1661, 29) says: "Notwithstanding the Kings earnest pleading for . . . moneys for the driving out the Scottish rebels, the Parliament took no notice of it, but spent the rest of the Week in settling Commissions . . . and declaring against them in set Rhetorical speeches made by several . . . members of the House of Commons."

[91] See *D.N.B., sub* Crew, John. See above, p. 10 and note.

[1] Peyton (f. 5), who was at the same committee, adds here that Whistler was called to the chair and that the petition of Lord Mountnorris was delivered by Sir Walter Earle. *Cf.* App. B, pp. 545-546.

[2] For the story of the Mountnorris case see Richard Bagwell, *Ireland under the Stuarts* (1909) (hereafter cited as Bagwell), I, 256-264.

[3] Peyton (f. 5) narrates a discussion between Clotworthy and Kirton as to whether it was a time of war when Mountnorris was judged by a Counsell of War. Clotworthy held that it was such a time, because the army was on foot and in the field. "If to draw armies to Dublin bee to make a time of warre: then my Lord Deputy may drawe downe forces and call a Counsell of warre upon any man that shall hurt his Toe," answered Kirton.

[4] A close friend of Strafford. Gardiner, IX, 231. Peyton (f. 5) says he was excepted against by St. John "because hee was a deputy Lieutenant of Yorkeshire under the Lord President." Pennyman "answered, though hee confessed himselfe to honour the Lord Lieutenant soe farre as to dye for him, yett hee loved noe man soe well butt hee loved truthe better." *Ibid.*

[5] "After some debate . . . was suffered to bee of the subcommittee." *Ibid.*

[6] Maurice Abbott was not a member of this parliament. This was probably George Abbott, his son, returned by Guildford.

[7] "2 a clock Tuesday." Peyton, f. 5.

Sir John Clattworthie[8] related of the State of the Kingdome,[9] and saied it may bee to the being of this but not to the well being. 1. Church matters. Parliaments but no great redresse.[10] Noe small disorders there.[11] Rake hell and you cannot finde worse and they are good without disparagment to any not paraleld.[12] Clergy bad both in life and goverment, drunkenesse. One Bishopp[13] was indited of whoredome and sodomy. Many of these soe. Active against the good, and scandalous in life is a way to gett preferment. 2. Courts Officialls, oppressing, high Commission[14] there is a great grievance. Example never papist or hereticke questioned.[15] Many popish Religious howses; in our Towne 7 or 8.[16] Popish officers in all the Kingdome, and the danger greater when the people are divided in Religion not putting downe but erecting newe howses. A Gentleman neare Sligo[17] where since hee came a Monastery is erected.[18] Monk beate the Clarke for ringing the Bell. Protestant is scandalized. The question is who commended this whorish incestuous Bishop who lay with his sister in England, his sister suffered and hee escaped. Dr. Adderton,[19] Bishop of Waterford in Ireland.

Courts of Justice all is *pro forma tantum* all is ended at Counsell borde[20] f. 4a] and odde references made to the Secretary whose office is worth 6 or 7000£ per Annum.[21]

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[8] Sir John Clotworthy. Of him Clarendon (I, 224) says: "A gentleman of Ireland, and utterly unknown in England, who was by the contrivance and recommendation of some powerful persons returned to serve for a borough in Devon, that so he might be enabled to act this part against the Lord Lieutenant." Clotworthy had been elected from Bossiney in Cornwall and from Malden in Essex, but chose to sit from the latter. C.J. II, 24. This speech is mentioned by *Diurnall Occurrences* (1641), hereafter cited as *D.O.*

[9] *I.e.,* the kingdom of Ireland. Peyton, f. 6.

[10] "The late Parliaments there have done noe good." *Ibid.*

[11] "The greatests disorders have beene committed by such as should have beene the masters of order." *Ibid.*

[12] "If you would rake hell, you could nott paralell out of England some persons that wee have in Ireland." *Ibid.*

[13] Peyton (f. 6) notes on the margin: "Hee meant the Bishop of Waterford." See *D.N.B., sub* Atherton, John.

[14] "The Officialls Court and the High Commission." Peyton, f. 6.

[15] "If any man live well him they call in question; but for Papist or Heretique, with such as these never meddle." *Ibid.*

[16] Peyton's version (f. 6) of Clotworthy's words is somewhat different: "There is one Towne (I think he named Slego) 5 or 6 monasteries, priories and nunneries." Sligo is in Sligo county and Clotworthy lived in Antrim. Bodvile may have copied *one* as *our.*

[17] *Vide supra.*

[18] "There is a gentleman very neere the state of Ireland that is suspected for hee hath lately purchased in one place a great deale of Land, and since there is erected a Monastery." Peyton, f. 6.

[19] Atherton. See above, note 13.

[20] "The civill gouvernment is corrupted, All hearings are in Chambers and at Counsell Table, and by Referees, and those are named by the parties whom they please and matters dispatched without Jury, without tryal." Peyton, f. 6.

[21] "2 offices in Ireland worth 6000£ or 7000£ per annum (hee named none) above the common opinion." *Ibid.*

Two. There are of the Customes of Ireland how in my Lord Lieutenant the King is abused 16 or 17000£[22] under colour of 1300£ advantage to the King. Wood or Timber hath no vent without licence from men.[23] Upon monopolie Tobacco busines a great grievance a great losse to the Kingdome and small profitt to the King.[24] Forfeite of patents because men did not come time enough. Soe by that, men were kept out of the Parliament and 8000 of 10000 men are Papists readie to march where I knowe not. The old Protestant Army have not their pay but the popish Army are paied.[25]

November 9. Munday. 1640 in the morning.

I[1] am content to put myselfe upon my liege subiects as my Lords who weere at Yorke can testifie. All charges I have been at are only for gard of the Kingdome. 2 points. 1. Chaseing out of the rebells. 2. To redresse the grievances and soe men shall say that I endeavour to make this a glorious and flourishing Kingdome and of borrowing of mony in London only for to maintaine the Army for two moneths. The distresses of the North the King would leave to us where and when wee would beginne, and leaves it to my Lord Keeper if hee faile to give a further relation, there is noe fault in the King to make this a happie Parliament, as hee saied at Yorke. And hee desired that Suspition might be sett aside.

My Lord Keepers Speech. 1. of the flourishing of this Kingdome anciently. A nation that never suffered any Conqueror to give any newe law, nor the old Lawe was never changed, and so compared the Kingdome like an interrupted pedegre.[2] Commendations of the King, etc. as the

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[22] "The King looses by indirect meanes 15000£ per annum." *Ibid.*

[23] Wood and timber are now "10£ per 1000 where they were used to bee butt 5£ or 5£ 10s per 1000." *Ibid.*

[24] Peyton (f. 6) elaborates this: "Tobacco, engrossed by one Mr. Carpenter and Mr. Little who pay the king 5000£ per annum, yeelds to them their rent to the king and all other charges deducted 100,000£ per annum."

[25] Peyton (ff. 6-7) gives the remainder of this speech in more detail: "The last Parliament, a *scire facias* or *Quo warranto* was brought for many Townes to appeare to answere to the limitation of a precise houre, of which failing many of them had a sequestration of their charters, and some of them were restored agen upon agreement to send such to the Parliament as those in power should name, soe that having the command of the Parliament, it was noe wonder what was there done. There are in Ireland 2 Armies, the Old and the New. The new consists of 10,000 men, as well disciplined an army as any in the world that hath nott seene an enemy: of this army 8000 are Papists, and this army is as well paid as any army in the world. The old is most part as it anciently hath beene, of Protestants; butt for their pay, it is at this day in arreare above a yeere's entertainement: and if this bee a fitt condition, lett this house iudge."

[1] This is the King's speech for Nov. 3. Palmer (f. 22) gives the explanation for the insertion at this time. "Mr. Speaker being to report to the howse the Kings Speeche and Lord Keepers att opening the Parliament and desired leave to reade them that hee might not mistake which was done, first the Kings, 2 the Lord Keepers, 3 the Kings Speeche of explanation concerning the Scotts being called rebells." *Cf.* Peyton, f. 7. This is, I think, the first case where the Speaker reported the King's speech to the Commons. It became a precedent for later action.

[2] "An uninterrupted Pedigree." Rushworth, IV, 13.

Lords at Yorke know and as after ages will remember. For his Justice: if any neare him hath the dispenceing of iustice and hath done contrary to the expresse command of his roiall Majestie saiing hee serves me best that serves honestly. The Queene hath and doth coöperate to the happie successe of this Parliament. A relation of the proceedings since the last Parliament concerning goeing to the North last summer. The Scotts strained the Articles of Pacification against his meaning and doe things against his honour, and the King did wish the unanimous consent or advise of all his Privie Counsell to reduce the Scotts to obedience by warre, etc., and soe caused Peeres at Yorke to bee summoned by Writt: and this was not to clash or prevent a Parliament but only to prepare and concurre with the Parliament. More particulars hee would have given if officers had come to Towne. His Majesties intent was to give a more particular relation when further you please to demand it. Hee desires nothing more then to bee in the good affection and opinion of his Subjects. If any desire or indeavour to misinforme his Majestie or to withdrawe his Majesties intention towards his Subjects, effect it they cannot, but let curse and punishment light upon such. A relation of the postages at Yorke and the Commission to the Lords to treate at Rippon. The Scotts demand 40,000£ for maintenance for their Army. The Lords at first were much troubled at it etc., and in the conclusion gave 8050£[3] *per diem* for maintenance of the Scotts Army.

The Kings speech upon the 5 of November wherein hee did expresse the trust hee did repose upon the howse of Commons and putting himselfe upon them, etc.[4]

Sir John Holland[5] moved[6] 1. for supplie of the King. 2. releife of the North. 3. repelling the Scotts. 4. greivances. 1.[7] Usurping of the Prelates. 2. Suffering of Priests and Jesuites. [3] Inundation of prerogative roiall to the overthrowe of our strongest privilidges. Inheritance infringed.[8]

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[3] Bodvile is obviously wrong in the amount; Rushworth gives (IV, 16) 850£.

[4] Upon the conclusion of the reading of the three speeches, "Itt was ordered they should bee entred that copies might bee taken and to speake to him after." Palmer, f. 22. *Cf.* C.J. II, 23. After this order Kirton spoke as follows:

"1, That passage which concerned his Majesties leaving the greivances to the house. 2, That itt was mentioned in the Lord Keepers speeche that the King was advised or had unanimous consent off the Lords, which hee sayd some off them denied." Palmer, f. 22. "That the King delivered in his speech, if the house had trusted him last time the Parliament had nott been broken. This hee thought was suggested to the king by some ill-wishers to the good of the state to putt suche an insinuation into the kings brest." Peyton, f. 7.

[5] Nalson (I, 496), Rushworth (IV, 27-28), and *S. and P.* (281) give the same version of Holland's speech. These three collections usually have the same version of most speeches, the stationer's version. Of the version of this speech Nalson in his introduction to the second volume (II, x-xi) explains that "Sir John Holland makes some exceptions to the speech . . . as not exactly agreeing with the original." Peyton reports the speech briefly but attributes it to Hollis.

[6] "We are called now . . . for foure principall causes." *S. and P.* 281.

[7] He is now going to enumerate grievances.

[8] "Even this [Magna Carta] . . . hath been infringed, broken, and set at nought

4. Great ones that are authors of most of our miseries. 5. Projectors who are cankers, and mothes. 6. Long and large entertainement of forrainers and strangers to the expence of his Majesties revenues.[9] In[10] supplie for the King proceede in due time with as ample as ever was required. Releife of the North with a sence of Charitie.[11] Removeing of the Scotts with a soft and milde reconciliation if it may bee both to the honour of the King and safetie of this Kingdome or else to expell them, by force. Grievances to proceede for a redresse with all temper and due moderation.[12]

The Sheriffe of Warwickshire was sent for by a Serjeant at Armes.[13]

A Petition of the Cittie of London[14] etc. touching grievances. A petition touching imposition to the King. Monopolies. Innovation. Newe Cannons. Concurse of papists. The dissolution of Parliaments. Imprison- f. 4b] ment of men for not paying the Ship-money. These were in the Kings petition. In the petition nowe. 1. Innovations. Of Religion. Souldiers at the Tower. Fortifications etc.[15]

Sir Henry Fane was sent with a message from his Majestie to take away iealousies what soever in generall or in particular. His Majestie taking notice of the concurse of papists, the departing and disarming of papists from London and Westminster by Proclamation; the fortification of the Tower to bee dissolved both souldiers and conestable.[16]

. . . by the overpotencie of some faire great ones, sacred Councellors of state." *S. and P.* 282.

[9] An allusion to the reception in London of George Conn and of Count Rossetti, successive agents of the Pope.

[10] "I shall now represent my owne weake apprehensions for our progressions in all the particulars for which we have been called." *S. and P.* 283.

[11] "The redeeming of the iust liberties of the Countries now under the power of warre; and even to a fellow feeling of their losses with great liberality." Peyton, f. 7.

[12] Holland was followed by Sir John Wray who said: "The threefold Cord hee hoped should nott bee broken nor untwist by any of our subtile enemies. The Cord hee said was England, Ireland and Scotland. The Lukewarmnesse of the Churche hee blamed." *Ibid.* For the stationer's version of this speech see Rushworth, IV, 40. Bramston makes the following comment: "Besides the senseles bablings of Wray, Earle, Peard, and manie other sillie and ignorant fellowes; and yet even these were heard with great patience and not without applause." *Autobiography of Sir John Bramston* (*Camden Soc.,* 1845), 74.

[13] This is part of Maynard's report. See C.J. II, 23. Bodvile has the office and county wrong. Palmer (f. 22) tells us that Mr. Derther was to be sent for as a delinquent. Derther was undersheriff of Bucks, and had returned wrong indentures.

[14] Presented by Alderman Pennington. Peyton, f. 8. *Cf.* below, p. 529. "Petitions did crowde in from severall counties and places." Palmer, f. 23.

[15] "Against the present fortification of the Towne and planting of Ordnance towards London and committing it to suche hands as encreases their feare etc." Peyton, f. 8.

[16] Peyton (f. 8) makes Vane report from the King that he "hath already given order for drawing a proclamation that they bee disarmed and depart." Palmer (f. 24) reports: "His Majesties message was reade, That there should bee a proclamation for all recusants to dep[ar]ted and to bee disarmed and directions given to the Attorney. That the garrison off the Tower should bee removed and left without constable or garrison." Gardiner (IX, 231-232) says: "The day before [*i.e.,* Nov. 8] Charles had announced his intention of expelling the recusants from London and of withdrawing

Mr. Pymme desired in pursuance of the Kings pleasure to have a Committee to see that papists depart out of Towne.[17]

Mr. Whistler[18] letters of grace granted to Papists and letters to Judges to cast away all records and proceedings against convicte papists etc.

It was ordered that the Proclamation concerning the abode of papists, and Armes bee according to law to touch all Papists all Warants Letters and favour shewed Preists and Papists.[19]

Dr. Leightons petition[20] who was imprisoned in the Bishops howse of London, from thence hee was put into a hole for 15 weekes, and 3 daies. Kept without meate etc. Poison was given him in Newgate hee cast his haire, with 10,000£ fine, and on the pillary hee was sett two houres in frost and snowe his eares cutt, his face branded, his nose slitt. 8 fellowes were sett upon him to beate him, and to teare his clothes. By the hangman hee had 36 stripes. All this for writing *Sions Plea* a booke against prelacie. They offered him usage full of crueltie and deceit. By Sir Robert Heath great gifts were offered to accuse others that approved of the booke. Some of the Fleete officers tooke from him mony and other things. 11 yeares hee hath been in prison. The officers offered his meanes taken from him but hee refused; besides 16 yeares agoe hee wrote a booke.[21]

It was ordered that Dr. Leighton should have libertie to goe abroad with his Keeper and the Keeper to have noe fee, that hee might prosecute his cause.[22]

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the Tower from the custody of the garrison which had been placed in it by Cottington."

[17] "To send for ministers, churchwardens constables, etc. to find out all the Papists within 10 miles of London." Peyton, f. 8. "A committee to bee apointed to call before them constables and churchwardens and ministers and others to informe them and justices aldermen, etc. that recusants may bee removed and disarmed and his Majesties proclamation putt in execution." Palmer, ff. 24-25.

[18] Whistler's speech is rendered clearer by a note in Peyton (f. 8): "Much debate here was, about an inhibition sent by 6 privy Counsellors for searching of a Recusants house, and the Counsell would seeme to defend it because all such Recusants as had compounded with the king had an Exemplification under the great seale to bee free from excommunication and Searche; butt this was nott to secure any Papist against any order of the Parliament to doe anything; and was of dangerous consequence otherwise, discountenancing the Justices of peace."

"Moved that there was Commissions off Grace to recusants. And they have privie signetts; Mr. Whistler produced a copy off one to Mr. Morgan off Lantarnam. Moved that these might bee withdrawen and prevented. Els itt would hinder the Kings intention off disarming them." Palmer, f. 25.

[19] See C.J. II, 24, and App. B, below, pp. 529-531, for other proceedings omitted at this point and during the rest of this day.

[20] "Dr. Leighton, a Scotchman, for his book entitled 'Sion's Plea,' dedicated to the last parliament, counselling them to kill all the bishops, by smiting them under the fifth rib, and railing against the queen, calling her a Canaanite and idolatress, had the sentence of the star chamber executed upon him." Whitelocke, *Memorials of the English Affairs* (Oxford, 1853, hereafter cited as Whitelocke), I, 41. Note Baillie's comment about Leighton's case. I, 273.

[21] *Sion's Plea* was published in 1628, twelve years before, and he had been imprisoned in 1630.

[22] "A Committee apointed for this business to assigne and heare Counsell and send

A fast[23] appointed too morrow sennight for us[24] and too morrow come moneth for the Kingdome. The Preachers appointed for the fast were Mr. Martiall, and Dr. Burgesse. Noe Convocation man to bee troubled to bee a preacher.[25] Sunday come sennight was named for a Communion.

Mr. Pymme moved that a care might bee taken to distinguish Papists from Protestants at the Communion.[26]

Sir Thomas Roe moved for prevention of deceit to have every one bring his certificate where hee hath received in the yeare before.

Concerning a fast, and of a Communion upon Sunday or Lords day next after the fast if may bee. The preacher appointed for the Communion was Mr. Gawden,[27] the place was Saint Margaretts. Mr. Morley[28] was to preach that day in the afternoone. More speciall care should bee looked to them that have their Wives and Children papists.

Mr. Prinnes[29] mans petition *Histriomastick*[30] a booke written by Mr. Prinne for which hee was punished. After *pro confesso* hee was sentenced in the Starre-Chamber[31] etc. It was ordered that Mr. Prinne should come here to prosecute his cause presently.

Mr. Stroude saied when one was in the Kings disfavour then presently a Bill is put in against him in the Starr-Chamber and then if hee did not betraie himselfe hee must bee undone with a sentence for not answering, as was likewise offered in my Lord of Bristowes cause. Hee desired that wee should petition the King that this course as was intended for a custome might bee laied downe and used so no more.

Mr. Cromwell[32] delivered the petition of John Lilburne[33] a sentence

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for records wrightings, etc." Palmer, f. 26. There were sixteen members of this committee. C.J. II, 24. About Leighton's later career, see Nalson, I, 512, and *Autobiography of Sir John Bramston* (*Camden Soc.*, London, 1845), 61 n.

[23] "The message was called in which was to certifie the Kings pleasure and answere concerning the Fast. The Lords sent Mr. Attorney and Sir Robert Riche that his Majestie had given a gracious answere and they desired a meeting with this howse to apoint tyme and place. The lords were 12. Moved by Mr Stroode that committees might bee named distinctly off such men as were proper for the service." Palmer, f. 25.

[24] A fast for the two houses of parliament, the city of London, and places adjoining. Peyton, f. 8; Palmer, f. 26.

[25] Stephen Marshall, vicar of Finchingfield, Essex. Dr. Cornelius Burgess was at this time vicar of Watford, Herts, and rector of St. Magnus, London. Clarendon (I, 401) says of these two men in 1641: "Without doubt the archbishop of Canterbury had never so great an influence upon the counsell at Court as Dr Burgess and Mr Marshall had then upon the Houses." Rouse and others had urged that none of "the authors of the late Canons and oathe any of them, nor any of the present convocation, because of their businesse" be selected to preach. Peyton, f. 8.

[26] *Cf.* C.J. II, 24.

[27] The later reputed author of *Eikon Basilikon.*

[28] George Morley, later to be Bishop of Worcester, was a friend of Hampden and a visitor at Great Tew.

[29] Prynne's servant, John Browne, presented the petition. C.J. II, 24.

[30] The well-known *Histriomastix.*

[31] For an account of this case, see Gardiner, VII, 334.

[32] Cromwell's first speech in the Long Parliament, probably the second speech he

against him in Starr-Chamber etc. As Whipping of 200 stripes from Westminster to the Fleete. Hee was wounded by the Wardens of the Fleetes men. His cause[34] was referred to the Committee of Dr. Leightons cause, and freedome was given him to followe his cause.[35]

f. 2b] A peticion for Lincolneshire was preferred by SIR JOHN WRAY[36] wherein they did complain of draining of fennes and taking their lands from them, being grieved with messingers from English Courts.[37]

MR. ROUSE[38] desired that the Bishop of Lincolnes[39] cause might bee considered off by the Committee. A peticion for Yorkeshire against the new Cannons without consent of Parliament.[40] The countie being impoverished by my Lord Presidents Court Serieant Maior that came with muskets to demand mony etc.[41]

SIR FRANCIS SEIMER moved that every Proiector or Monopolizer in all respects might bee disabled to sett in this howse.

MR. STROUDE said that all drawers of any patent for monopolizing is as badd as any man that is a Monopolizer.

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had ever made in parliament, the first being in 1629 (see N. and R. 59, 139, 192-193). See Philip Warwick's famous comment in his *Memoirs* (1701), 247-248.

[33] John Lilburne, later leader of the Levellers. He had been arrested in 1637 for printing and circulating unlicensed books, notably Prynne's *News from Ipswich.* In his examination before the Star Chamber he refused to take the *ex officio* oath and on Feb. 13, 1638, he was fined 5000£, whipped, pilloried, and imprisoned until he obeyed. See *State Trials* (1816), III, 1315-1368.

[34] Nalson (I, 512) gives an extended account of Lilburne's association with Bastwick, whose pithy characterization of Lilburne deserves quotation: "A man of a restless, boyling and unwearied Spirit, condemned by his ungovernable temper to perpetual troubles, and quarrels with his Superiours, and always opposing himself to the power that was uppermost."

[35] The C.J. (II, 24) say at this point that Cromwell was added to the committee for Dr. Leighton's case, but his name had appeared in the original list. The Clerk probably inserted it in the original list afterwards.

[36] About the fens see the *Cal. St. P. Dom. 1640-1641* (Index, under Lincoln County, fens). See also Wheeler, W. H., *The History of the Fens of South Lincolnshire* (1897), 31-32.

[37] See C.J. II, 24.

[38] Francis Rouse had been long a leading orator, of the rhetorical kind, and was destined to be the Speaker of the Barebone Parliament.

[39] John Williams, Bishop of Lincoln (1621-1641), had been sentenced on July 11, 1637, by the Star Chamber to a fine of 11000£, and to imprisonment. On Feb. 14, 1639, he was again before the Star Chamber for having in his possession letters derogatory to Laud. He solicited Hampden's help in the Short Parliament, but failed to regain his freedom. On Nov. 16, 1640, the Lords intervened in his favor and gained his release.

[40] Probably presented by Lord Fairfax (*cf.* C.J. II, 22 and 24).

Christopher Ellison writes to John Matteson (from Westminster, Nov. 10): "There is . . . a petition presented by our Yorkshire gentlemen, wherein they express a great many grievances; not any of our country men that was in the House excepted against it, saving Sir William Strickland, but Sir Phillipp Stapleton took him quickly up." F. L. Wood MSS., *MSS. in Various Collections,* VIII, 54, *Hist. MSS. Comn.*

[41] Bodvile omits all reference to the speech of Sir John Colepepper, who presented the grievances of Kent. See C.J. II, 24; *S. and P.* 342-345. The *Cal. St. P. Dom. 1640-1641* (259) errs in assigning the speech to the 14th.

It was ordered that all proiectors, Monopolizers, Promoters, or Advisers of them should bee made uncapable of setting in this howse.[42]

November 10. Tuesday morning.[1] 1640.

Sir Will[iam] Witherington[2] called the Scotts rebells.[3] Mr. Hollis[4] and Mr. Glyn[5] moved either for explanation or for punishment. Sir Will[iam] explained his meaning and called them no more rebells seing his Majestie called them otherwise.[6] Hee relates the destresse of the County of Northumberland and delivers a petition to that effect.[7]

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[42] Or any who "procured any warrant of any restraint." Palmer, f. 27. *Cf.* also C.J. II, 24, and Rushworth, IV, 37.

[1] Bodvile must have been late, for he omits all reference to the petition of a distressed minister, Thomas Wilson, presented by his countryman, Sir Edward Dering, and to the narrative by Sir Henry Anderson of Newcastle of the "miseries there."

"A petition by Thomas Willson of Wadham [Otham] in Kent against the Archibishop of Canterbury to bee restored to his Benefice, where off hee was suspended for not reading the Booke of Sports per Archbishop Canterbury and before per Deane Bargrave and for other matters." Palmer, f. 27. *Cf.* below, p. 531.

"Hee [*i.e.,* Willson] said, hee was a great Bishop and too great indeed; hee hoped before that threatening yeere should goe about, His Grace should have more grace or noe grace at all.

"The effect of the Petition was that Mr Wilson was forbid to preiche by Sir Nathaniel Brent and Dr Bargrave, Deane of Canterburie and molested, for nott reading the praire wherin the Scotts are called rebells, by the Archdeacon and Dr. Sherd." Peyton, f. 9. *Cf.* Dering's speech in introducing the petition. *S. and P.* 89-86 (erroneous paging) or *Proceedings in Kent, 1640,* 38-39, n. See also *Cal. St. P. Dom. 1640-1641,* 254. For Rouse's speech, see below, p. 531.

About the conditions at Newcastle, Palmer (f. 28) tells us: "The Burgess of Newcastle made a declaration off the miseries there. Prayd the author and counsellor of the occasion off those troubles might first bee questioned. Newcastle breedes mariners more then any other place. To move to Burne the Booke off canons by the Common Hangman." Peyton (f. 9) attributes this last sentence to Sir Henry Anderson, who, he says, made a "relation of the state of New Castle and Northumberland and Durrham." *Cf.* below, p. 531.

[2] Widdrington.

[3] "Sir William Witherington called the Scotch, Rebells and Invading Rebells, and was checked for it by the house, for that the king had called them his subiects, under his great seale of Treatie." Peyton, f. 9, and *cf.* Palmer, f. 28.

[4] "Mr Hollis, Those words rebells the king had sweetned." Palmer, f. 28.

[5] "Mr Glynn moved hee might bee questioned but passed over by explanation." Palmer, f. 28.

[6] "With this Explanation, the House rested satisfied." C.J. II, 25. "Sir William Witherington did pass itt over synce the King treated with them as subiects hee would call them so." Palmer, f. 28.

[7] Bodvile leaves out Lord Digby's speech at this point. Rushworth (IV, 30-32) gives the "separate" version of it, misdating it as Nov. 9. Digby presented a short memorial of the heads which the county court of Dorset had formulated on election day, and had asked its representatives, then to be elected, to bring before parliament. He presented also a Note of Remembrance from the clergy and added somewhat of his own sense. In Peyton's words (f. 9) he "spake against the acts of the late new Synod made of an old Convocation, ect. against the Oathe of the Canons, that is a Covenant worse then that of the Scotts, a Covenant of the Hierarchy against regall power; and made a most excellent Speeche." Palmer (ff. 28-29) gives most of the points of the speech. See also App. B, p. 531.

Mr. Peter Smarts[8] petition was delivered by Mr. Bagshawe concerning the oath and cannons[9] first against the Statute 25. H. 5 Cap. 2^{d}.[10] 2. against the Common Law. 3. It is a premunire M. 21. H. 8.[11] Example cannons by Cardinall Wolsey, nothing can binde the laitie without consent of Parliament,[12] nothing in Commission[13] that gives power to punish the poore man as is alledged in his petition for preaching an honest sermon such as if hee had preached in Queene Eliz[abeth's] time hee had been made a Bishopp for it.[14]

It was moved that Dr. Cusons[15] who is Deane of Peterburough might bee sent for by a Serjeant at Armes[16] for a reviewe of poore Smarts cause in the high Commission. In punishment the Pope himselfe never went higher. The Petitioner moved to have course taken that hee might recover the 600£ which was given him in liew of the false imprisonment.

Mr. Pym desired to consider who promoted Dr. Cusons to bee Deane and as for sending for this Cosens and others least they goe out of the Kingdome that they might bee forthcoming.

Sir Francis Seimer moved against all those Ministers that laide fault upon the last Parliament and against the Declaration that was then put out.

f. 4b] Mr. Smarts petition was referred to Dr. Leightons Committee with the same libertie given him. Inquiry to make how and by whome Cusons was preferred and everie member of the convocation howse if hee bee here questioned might bee sent for by a Serjeant at Armes.[17]

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[8] See Nalson, I, 518-519; also *Correspondence of John Cosin* (*Surtees Soc.*, 1869), I (see Index under *Smart, Peter*); *Cal. St. P. Dom. 1640-1641*, 287-289. *Acts of the High Commission Court . . . Durham* (*Surtees Soc.*, 1857), 197-211.

[9] "Mr. Bagshaw presented Smarts Petition. A prisoner in the Kings Benche, against the proceedings against him att Yorke, and the highe commission there. And for redress against the Court of Kings Bench and that hee may have execution off a judgment there. . . .

"1. That Innovation introduceth flatt Idolatrie. . . .

"2. There is in itt a step towards treason; by being against supremacie. The convention off the clergie nor convocation nor synod." Palmer, f. 30.

See Nalson, I, 523, for a very brief version of Bagshaw's speech.

[10] Bagshaw must be referring to 25 H. 8. cap. 19. *Stat. of the Realm*, III, 460-461.

[11] Palmer (f. 31) gives Michaelmas 21. H. 8 B[anco] R[egis].

[12] "They can nott to make canons to binde the laitie without assent in parliament." Palmer, f. 31. "The Canons could nott bind the Layty without Act of Parliament." Peyton, f. 9.

[13] "The fining, depriving, degrading off this Smart the Commission and Dockett under Attorney Noys hande which hee had seene doth not warrant." Palmer, f. 31.

[14] *Cf.* Palmer, f. 31. Bagshaw moved (1) that the prisoner might prosecute his cause, (2) that Dr. Cosin be sent for, (3) that the records and decree might be viewed, (4) that neither the High Commission nor any Ecclesiastical court can fine or imprison.

[15] According to Peyton (f. 9), Smart accused Dr. Cosin of "preaching that since the masse was taken away, it was a deformation and nott a reformation, and that in ecclesiasticall causes the King had noe more power then the ostler that rubbed his horses heeles." Peyton, f. 9. *Cf.* below, p. 531. See N. and R. 37, 130-131.

[16] The question had been raised "Whither a Serieant att armes may be sent for him" (Palmer, f. 31), to which Peyton (f. 10) reports the following answer: "Dr. Manwaring was sent for by the Lords to ther Barre out of the Convocation, and hee [speaker not given] doubts nott butt the house of Commons may doe the like."

SIR GILBERT PICKERINGE preferred a petition for a man of the Palatinate that was a Scholler and a Schoolemaster whose bookes were taken from him the last Summer by Reade, others by Mr. Secretary Windebankes directions.[18]

MR. SECRETARY WINDEBANKE saied that hee heard that hee kept schoole against his licence, teaching strange doctrines and desired time to prove particulars.

SIR GILBERT PICKERINGE saied that the man was conformable: and saied that his intention was only to put downe good Schoolemasters and to bring poisoned Schoolemasters in.

It was ordered for a select committee that upon peruseing petitions already come in or to bee put upp to this howse, in that a drawing of some f. 5a] complaint hereafter might bee by consent of the howse to bee presented to the Lords for the punishment of those that deserve it as authors of our miseries and mischiefs. Noe Committee cann report to another but to this howse only.[19]

A petition for the Countie of Northumberland being distressed by the Scottish Army 300£ *per diem* to bee paied for one moneth to the Scotts by the petitioners, they desired releife for this particular losse of 300£ *per diem* etc. 2. most of the Coale are lost and will not bee recovered without great expence. 3. Want of trade and removall of them from their howses. 5 and 6. Want of people to till their grounds and their meddowes were spoiled. 7. Want of releife for their Cattle in winter. 8. Plundering the howses of some of them. 9. Taking away their meanes. 10. Entering into the Kingdome. 11. Putting offe their Cattle under value.[20]

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[17] C.J. II, 25; Rushworth, IV, 42. St. John follows. See App. B, p. 532.

[18] "A petition by Sir Guilbert Pickering off a [man of the] palatinate; who was serched and ransacked by secretarie Windebancks warrant and being schoolmaster was prohibited to keepe schoole. Is a banished scholler off the Palatinate." Palmer, f. 32.

[19] For members of this Committee see C.J. II, 25. Its function was "to draw . . . some such way of Declaration, as may be a faithful representation to this House of the estate of the Kingdom." This is the committee for which Digby had moved at the conclusion of his speech. See p. 20, n. 7. Peyton (f. 10) says that "above 50 petitions" were "delivered to the Chaire of Priviledges." In a marginal comment written probably much later, he calls this Declaration the "seeds of the Great Remonstrance."

The Earl of Manchester in his brief *Memoirs* dealing with the beginnings of the Long Parliament (B.M. *Add. MSS.* 15567, Minnesota, 952, ff. 30-30v) says: "The Greivances of the Kingdome haveing been fully enumerated and declared, some of the members of both houses had private meetings and consultations how to direct their parliamentary resolutions in order to a present redresse and future security, and it was conceived by them to be the most certaine way, and most consistent with the duty and allegiance of the Subjects to fix their complaints and accusations upon evill Councellors, as the imediate actors in the tragicall miseries of the Kingdome, rather then upon the personall faileings and male-administrations in the King. Therefore it was resolved that the whole house of Commons, as the Grand Inquest of the Kingdome should draw up such a remonstrance as might be a faithfull and lively representation to his Majestie of the deplorable Estate of his Kingdome, and might point out unto him those that were most obnoxious and lyable to censure, owneing still such a due regard to his Royall Authority as not to mention his name, but with honour, and in the deepest sence of their former greivances to render thanks for the calling of this parliament, as the happy omen to their present hopes of future redresse and establishment."

Palmer (f. 32) tells that all committees were "to bringe in the severall greivances that concerne this matter to the howse and bee transmitted to the private committee to bee by them commanded to the howse."

SIR BENJAMIN RUDIARD desired support for the petitioners by a common purse, and presently to declare our intention for releife untill time really to performe it.[21]

SIR HENRY ANDERSON desired releife both for Durham and Newcastle.[22]

MR. PYMME desired that the authors of this mischiefe might bee founde out in time and out of their estates to repaire this losse.[23]

A Message was sent by the two Cheife Justices for a Conference presently touching the breach of Privilidge of the Lords howse by some members of our howse in particular etc. A Committee attended the Lords. Only the matter was related. They conceived a breach of Privilidges by some members of ours, viz. for seizing and searching my Lord Brooke and the Earle of Warwicke[24] by Sir William Beecher[25] who discharged himselfe by a Warrant under the handes of Sir Henry Fane and Secretarie Windebanke[26] without any crime laied to their charge.[27]

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[20] "This petition . . . with a schedule of particular [grievances] annexed was read, and much debated; but nothing resolved [upon it]." C.J. II, 25.

[21] "Moved for some charitable declaration towards Northumberland and the other counties under control." Palmer, f. 32.

[22] Peyton puts this speech of Anderson much earlier in the day. See above, p. 20, n. 1.

[23] "By confiscation should att last contribute." Palmer, f. 32. *Cf.* below, p. 532. Gardiner styles this "an ominous suggestion."

[24] "pocketts for papers presently after the Breache of the last Parliament," added by Palmer, f. 33. "To search the studies . . . for writings and papers," Peyton, f. 10.

[25] "Clearke of the Counsell," added by Peyton, f. 10.

"Sir William Beecher who was noe member off the howse was committed by the Lords for refusing to shewe his warrant without acquainting the king." Palmer, f. 33.

[26] "Which warrant proceeded from the two Secretaries who being of the lower house." Peyton, f. 10.

[27] Lord Digby made report of the Conference to the House. C.J. II, 25; Peyton, f. 10. Palmer gives the following omitted by Bodvile:

"Mr Speaker att the rising acquainted the howse that Mr Sandys who had the Patent off coles which was a proiect had signified itt to the Speaker according to the order for a warrant for a newe election. But Mr. Sandys told mee hee did not signifie [it] so much himself but Mr Coventry a competitor [f]or the Burgeship had done itt." Palmer, f. 33. See C.J. II, 26.

"Sir Francis Seymour moved that those who had misinformed the King off the last parliament and rendered them odious to his Majestie might bee enquired; least any such should bee members now; as hee wished and hoped they were not: moved that they might cleare themselves by Professions and Protestations everie man single and apart as was done concerning Sir Dudley Diggs." Palmer, f. 33. For the Digges episode see Rushworth, I, 356.

November 11. Wednesday. 1640.

It was ordered that Alderman Abell should bee sent for to come here when the Committee of grievances which were to sett this afternoone[1] and to bring his patent with him.

Mr. Cradocke[2] saied that there was noe good meant towards the Cittie. There was mounting of gunnes and setting of basketts with ladders to defend the gunners. They tried them at Dedford.[3] Report that Island neare Horsidowne was desired from a Brewer and Inigo Jones[4] was to see it. Souldiers at the Tower still training and mounting gunns this day and many other gunns were mounted. That belongs to the Deputie of Ireland[5] who saied hee hoped the Citty would bee subdued in a short time. And a Sollicitt[or] in the Bishops Court saied he heard that the Cittie should shortly be about the Citizens eares.

Sir Thomas Roe saied that my Lord Cottington[6] desired to shew the training of the men in the Tower to the King before the discharging of them. And this hee protested was all and that there was no intention against the Cittie.

Alderman Pennington. Why the baskets and Granadoes were still upp seing it was only a Triumph.[7]

Mr. Digbie[8] saied that there was a Popish Ecclesiasticall hierarchie and governement over the whole goverment of this Kingdome. There was a letter from Chainy[9] requiring a fast amongst the papists towards the Queenes pious intentions.[10] The Papists of Lankeshire have prepared all this summer more Armes then the Protestants. They fast everie Saturday. There was a letter dated from Oatelands by Seignior Rosette to Anthony Champny a Preist which sent this letter to Sands a Preist in Lankeshire.[11] The Preists of London have gott their friends to arrest them to hinder any prosecution against them for their removall as the Proclamation directs.

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[1] "This afternoone twas said butt the house sate all day." Marginal note in Peyton, f. 10.

[2] Matthew Cradock was a London merchant and first head of the Massachusetts Bay Company. See Winthrop's *Journal* (N. Y. 1908), I, 11. Cradock did not make a speech but "read certaine informations." Peyton, f. 10. See also C.J. II, 26.

[3] *I.e.*, Deptford.

[4] Inigo Jones, whom we shall meet again.

[5] "One Fereby that belongs to the Lord Lieutenant of Ireland." Peyton, f. 10.

[6] Manchester (f. 31) says that Cottington was one against whom the House of Commons conspired. He knew this and "could not hope for soe powerfull an intercession, neither durst he relye on his innocency as parliament proofe, therefore he had recourse to that prudent if not subtle way, by stripping himselfe of his skin, to save his life. He knew the Mastership of the Wards was a place of that value and power as probably it might stopp the mouths of his greedy enemies, or else open the hearts of some towards him in a way of protection and freindship, he therefore declared to the King his condition and propounded the makeing the Lord Viscount Say and Seale to be his Successor. This proved a very successfull pollicy, for as soone as this was made knowne to those who were concerned in their hopes of his place, all criminall aspersions were laid aside and he gained the advantage of a retired and quiet being." Quoted first by J. L. Sandford in his *Studies and Illustration* (1858), 308 (hereafter cited as Sandford). The great value of Sandford's book to all students of seventeenth century England has never been sufficiently recognized.

[7] "Upon information by Alderman Pennington that there was cause of suspicion off ill inventions against the citie by renuing the fortification att the Tower now latelie. Sir Thomas Rowe informed [them] itt was onelie to shewe the king what preparation were made in the tyme off my Lord Cottingtons service there that all his monie was not spent in vaine." Palmer, f. 34.

[8] This should be Rigby, who was a member for Lancashire. *Cf.* Palmer, f. 34. Gardiner says (IX, 233 n.): "Our only knowledge of the debate comes from Bodvile's *Diary* prefixed to D'Ewes. It seems to have been written by some one who had no

Sir Henry Anderson spake of a paper delivered to him without name for his keeping his howse for his safetie.

Sir Francis Seimer[12] moved Concerning the Irish Preist.[13] Hee said there was great danger to us all *vide* examination at large. Hee moved that wee might desire a present Conference: much inveighing against Secretarie Windebankes carelesnes in the examination of the woman.[14]

Mr. Pymme[15] moved against Sir George Ratcliffe, and Sir Robert King moved that Ratcliffe saied that this Armie raised in Ireland is against England, and not against the Scotts: and soe much Sir Robert King desired a gentleman of this howse to declare for us and our safetie. Sir John Clotworthie is the man to whome Sir Robert King gave this charge.

Sir John Clatworthies relation. Sir Robert King muster M[aste]r generall of Ireland saied some fewe daies before the breach of the last Parliament here, hee was in Ireland, Sir George Ratcliffe saied wee knowe

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personal knowledge of the debate. . . . Bodvile had none of D'Ewes' minute accuracy."

[9] Champney. Anthony Champney, D.D., a Roman priest, vice president of the English college at Douay. He was sent to England in the reign of Charles I.

[10] "A letter was read of a superior to the Catholiques in Lancashire that they should keepe a fast every Saturday for the designe in hand." Peyton, f. 10.

[11] "Mr Rigbie produced a letter directed to one Mr Sandes in Lancashire by Anthony Champnes signifying Rosettos letter off the Queenes pleasure for a fast everie Saturdaie for her good intentions." Palmer, f. 34.

[12] Pym, not Seymour, made this speech, as Clotworthy, not Pym, made the following. Bodvile errs again. *Cf.* Palmer, f. 34, and Peyton, ff. 10-11.

[13] Mrs. Anne Hussey, a woman "of good fame and credit, and now a good Protestant, though formerly a Romish Recusant," had complained to Secretary Windebanke of an Irish priest, William O'Connor, who was now imprisoned for his statement that "many thousands were in pay to be ready to cut all the Protestant Throats, and being asked how that could be? he answered by killing the King first; and being asked how that could be? he said this hand (meaning his own hand) should do it." Nalson, I, 523.

"Mr Pimme spake of the Papists intending a day to cutt the Protestants throates; and this spoke of by a Preiste of the Queen Mothers, who alsoe said if the king would nott yeeld to it, hee should fare as the rest, and rather then faile his hand should doe it." Peyton, f. 10.

[14] "The Preist was saide to bee complained of to the Secretary Windibanke, who twice referred it to his man his secretary ect. For which hee was much iudged of the house." Peyton, f. 10. *Cf.* Rushworth, IV, 41; C.J. II, 26.

[15] Clotworthy, not Pym. See above, note 12. Gardiner (IX, 233-234), having only Bodvile to depend upon, makes this speech Pym's dramatic opening of the accusations against Strafford.

how to please the Scotts at an houres warning and then when our Armies are together the King deserves noe good Counsellours if the King will f. 5b] not have what hee pleaseth in England.[16] And upon my life what I say is truely spoken to mee by Sir Robert King[17] who is willing to reveale his knowledge.[18]

Mr. Thomas Cooke moved complaints how hee prosecuted one Smith that had an active hand in the Gunnpowder Treason. This Smith was discharged by Justice Berkley[19] upon command from Secretarie Windebanke: and another man one Mors whome Newton prosecuted was discharged by Sir Henry Spiller upon a handwriting from Secretarie Windebanke and the like from another Preist and for this hee was put in the prison in stead of the Preist for his paines.[20]

Mr. Secretary Windebanke[21] saied hee had done nothing in the busines of recusants but ministerially and if hee hath done anything in his owne particular hee will submitt to this howse.

Mr. Sands and Sir John Packington charged Secretarie Windebanke, by Captaine Price which denieth it that hee thought all that were of the last Parliament were Traitours for denying to give the King monies, and Sir John Packington saied that Dr. Radimond heard him.

Mr. Price saied that Sir John Packington was a yong man and might forget himselfe and said that Dr. Baskervill heard what was said. Hee confessed that Secretarie Windebanke saied that all which paied not Shipmoney were Traitours.[22]

Cheife Justice Brampston and Justice Foster came[23] with a message to desire a meeting of a committee of both howses at three of the Clocke in the painted chamber this afternoone touching passages of a treatie at Rippon.[24] Answer was returned that they of our howse could not meet[25] being upon very weightie busines, but as soone as wee could, wee would returne answer by messengers of our owne.[26]

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[16] Palmer (f. 34), in reporting this speech of Clotworthy, says: "That there being an Armie here, Another to bee sent out of Ireland the King was not well advised iff hee had not what he would." *Cf.* below, p. 532.

[17] Mustermaster-general and Clerk of the Cheque in Ireland.

[18] "Mr Glinn that a popishe preist upon breache off the parliament sayd hee did knowe there would bee an alteration of religion by violence and force. Itt was mentioned there was a greate prelate in itt. But that was hushed." Palmer, ff. 34-35.

[19] Sir Robert Berkeley, Justice of the King's Bench since 1632.

[20] "Mr Cooke reported one Newtons relation off a preist whom hee prosequuted and by a Judgment was a *cesset processus* and by warrant from Mr Secretarie Windebanke. Another by Sir H. Spelers. Another by Secretarie Windebanke and another by him. Another by the king at the Queenes Instance." Palmer, f. 35.

[21] Before Windebank spoke there was, according to Palmer (f. 35), an order that Newton and Gray should be sent for and that no member of the House should go forth in the meantime. Newton and Gray were messengers of the King's Chamber. C.J. II, 26. Gardiner (IX, 233) errs in placing the locking of the doors after the reading of Rigby's letter. After this order Pym moved "that itt may bee orderde the lord lieutenant should declare himself whither hee had advised the Irish armie to bee brought in." Palmer, f. 35.

[22] Mr. Price for this offense "was bid to bee called to the Barre butt craving pardon hee was excused the Barre." Peyton, f. 11. "He explained hee did forget the words were that those denied shipp-monie were traitors." Palmer, f. 35.

[23] Before the justices arrived "Mr Pymme moved the lord[s] might rise before the house had determined therefore asked leave to goe out and did not doubt to intimate to some that they might sitt. And had leave upon debate to goe out being a faithfull member but not as a messenger." Palmer, f. 36. App. B (below, p. 532) confirms

Mr. Secretarie Windebanke desired time to recollect himselfe as[27] concerning the charges of Prices, etc. and for the present hee did absolutely denie that hee did not remember any of those words charged upon him either by Price or Sir John Packington, as spoken in Leicester Howse, and Dr. Baskervill[28] and Radimond[29] were sent for as witnesses[30] forthwith.[31]

A report was sent upp to the Lords[32] touching things formerly saied and

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this significant episode. Pym's request may have arisen out of another episode. In Peyton's record (f. 11), just before the Lords' Messengers appear, "Sir Walter Earle would nott have any member of the house at the end of the house whisper any person sent of a message from the Upper house at theyr returne out."

[24] The messengers from the Lords informed the House that the "King hath commanded the Lords that were the Commissioners to treat with the Scots Commissioners at Rippon and at York to give an account to both Houses of Parliament of that which passed there." C.J. II, 26. They asked for conference at 3.00 p.m. Palmer, f. 36.

[25] "Feared they should not have tyme but would send answere by a messenger of there owne." Palmer, f. 36. Sandford (310) says: "Many members of the Commons conceived that the message was sent at that time to gain intelligence what private debate was in hand in the Lower House." This is a probable enough conjecture but one hard to prove.

[26] After this answer to the Lords, "Mr. St. John aggravated the Committment of the Preists accusation of the killing the king, by Mr. Secretary to his man soe Mr. Grimston, Mr. Whistler, Mr. Kirton, Sir Hugh Cholmeley." Peyton, f. 11.

[27] "In a businesse that soe highly concerned his life and fortune." Peyton, f. 11.

[28] Sir Simon Baskerville, the eminent physician of Charles.

[29] Another of Bodvile's slips. It should be Cademan, as in C.J. II, 26, *i.e.,* Sir Thomas Cademan, a well-known London physician and recusant.

[30] Bodvile omits all reference to the appearance of Newton and Gray as witnesses against Windebank. See C.J. II, 26; Palmer, f. 36; Peyton, f. 12. "It was directed the Speaker should examine Newton how hee had byn used concerning the discharge off preists." Palmer, f. 36.

[31] "Before the witnesses came in Mr Pymme brought in his reporte." Palmer, f. 36. A select committee had been appointed, made up of Pym, Strode, St. John, Holles, Lord Digby, and Clotworthy. They had retired to "prepare matter for a Conference to be prayed with the Lords and the Charge against the Earl of Strafford." C.J. II, 26. Peyton (f. 12) makes Pym report "from a Committee appointed to collect such matters as might cause jealousies of alteration of the Churche and State." To this select committee—which was soon to be known as the Close Committee—Sir Roger Twysden (in his Journal, *Archaeologia Cantiana,* I, 187-188) pays his respects: "I saw the unusuall proceedings against the Earl of Strafford by a close Committee first." Further on (188) he remarks: "And what was it to me . . . whither the Earl of Strafford or Mr Pym sate at the helme of government; if their commands carryed equall pressure?" See also his historical note on close committees, p. 187. Bulstrode Whitelocke has an account of the Close Committee, its establishment and its membership. *Memorials* (Oxford, 1853), I, 113-114.

[32] The report was not sent up to the Lords till later. C.J. II, 26. Bodvile corrects himself later on. Pym reported "That there hath beene a jealousy of a designe by violent waies to bring in Popery. 1. by Papists. 2. by the Lord Lieutenants of Ire-

particularly against the Earl of Strafford. Mr. Stevens[33] complained that one saied of my Lord of Worster that hee had 500 Armes and his Commission. Hee complained of one Baskervill, that another papist had many other shovells and spades and other provision for Armes.[34]

Information for reporte of a letter by Mr. Digbie,[35] and prayers beyonde seas for the success in England and mony is here gathered and powder provided. And soe suspected that goeing to the Tower was but colourable, and that the Kings person was in danger.[36] One Hamend, a papist in Berkshire, hath Armes[37] in his howse, and Armes were found in the Chancery. Concerning Lieutenant Strafford,[38] Sir George Ratcliffs wordes by Sir John Clotworthie and the Irish Army intended against England[39] and my Lord Lieutenants servant saied (as Mr. Cradocke alledged) that hee (which must relate to the Lieutenant) would subdue the Cittie. That my Lord Lieutenant hath done things conformable to such a plott. Hee hath sent Warrants for imposition upon paine of death, and certainely if hee had power, hee would doe it and hath sent for leviing of money by Musketires.[40] Hee is a man very forward to perswade his Majestie against the Scotts, and soe by weakening us and the Scotts the private designe of the papists might bee advanced. Hee sent directions to breake the treatie between us and the Scotts by invasion and surprising of the Scotts[41] in the Bishoppricke that therby the designe of the Papists might bee advanced: and as concerning the Irish goverment as yet it was nothing but in short time they will prove that hee had a designe to bring the Irish forces to subdue England.[42] For present instance my Lord Mountnorris

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land preparing of forces, and that it was intended against England and nott against Scotland." Peyton, f. 12. See below, App. B, p. 532, for this report.

[33] This point and those that follow are part of Pym's report. "The groundes touching the popishe plott are that off the woman and the Irishe preist. 2. a report from Mr Stevens who" etc. Palmer, f. 37. *Cf.* Peyton, f. 12.

[34] "A report from Mr Stevens who brought up wittnesses last parliament and one Littleton told him that my Lord of Worcester had 500 armes; wee know hee had a commission. And that one Mr Hall was emploied 40 dozens of spades." Palmer, f. 37.

[35] Kenelm Digby.

[36] This is item 5 in Palmer's divisions. Item 6 is "The taking 36 musketts in chancerie lane late cause of suspition."

[37] "Mr Hammond had 60 armes provided for him in Dorsetshire." Palmer, f. 37.

[38] Here begins part III of Pym's report. "The other parte concernes the lieutenant." Palmer, f. 37.

[39] "Sir George Ratcliffes speech to Sir Robert King that the Irishe forces were to come hither and doth informe itt was intended against England not against the Scotts." *Ibid.*

[40] "That musketts in great number were brought into Yorke." Peyton, f. 12. Another of the charges against Strafford was "the continuing preparation of fortifying the Tower since his comming to Towne." *Ibid.*

[41] "And a gent[leman] said the Lord Lieutenant had written a letter to surprise the Scotts in Durrham, where the Treaty was on foote betweene the two armies." Peyton, f. 12; *cf.* Palmer.

[42] "It will bee prooved that my Lord Lieutenant had a designe to bring over the Irishe army into England." Peyton, f. 12.

his cause,[43] and papists suffered in England to increase in Armes. As for Ireland and my Lord Deputie Sir George Ratcliffe declared that the Scotts (upon his salvation) had demanded 800,000£[44] and 4 counties to bee severed.

The Committee thought it fitt that a message should bee sent to the Lords to charge my Lord Deputie with high Treason and that for the present hee might bee sequestred and stand committed for two or three daies untill witnesses and proofe came in.

SIR PHILIP STAPLETON moved that to the message might bee added here that my Lord Lieutenant sent a warrant to raise monies in Yorkeshire pretending by warrant from all the Lords at Yorke. Hee beleived that the rest of the Lords would disavowe this.

It was ordered that wee should accuse my Lord Leiutenant of high Treason, and desire the Lords that hee might bee committed and sequestred[45] from the Parliament.[46]

2. That a Proclamation should bee sent to give notice to all that will come in to accuse and give testimonie against that great Lord. Example. f. 6a] a°. 1°. R. 2.[47] this second is deferred for two or three daies.

3. To thinke of some course that the portes of Ireland might bee open for all men to come over here to England.[48]

MR. ST. JOHNS saied that the accusation for Treason beeing a cause for blood the Prelates have no vote in this thing, and desired to give a touch to the Lords of this thing and leave it to them. And another reason for not having the Prelates to vote in this, in regard they were generally charged with Innovations of Religion, etc. Example against Bishops went out from voting when the Duke of Ireland was condemned for High-Treason.[49]

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[43] "The Lord Mountnorris lands and life taken away by a Counsell of Warre in times of peace, and by a meere act of Counsell." Peyton, f. 12. "The case off the Lord Mountnorris wheroff manie presidents off offences off that nature to condeme him to deathe without lawe is highe treason." Palmer, f. 38.

[44] *Cf.* Palmer, f. 38.

[45] Pym to go with the message to the Lords. C.J. II, 26. The speed with which Pym and his Close Committee were able to put this impeachment through the Commons argues careful organization.

[46] "And that wee shortly attende them with particulars." Palmer, f. 39. "And in convenient time they should deliver to the Lords certaine particulars and Articles of there accusation." Peyton, f. 13. It had been Pym's plan to spend several weeks on inquiry but affairs moved so rapidly that action was deemed necessary. The Close Committee had not time to draw up a clear and comprehensive accusation. Falkland had objected to bringing the accusation until the whole truth was known, but Pym felt they could not lose time. Gardiner, IX, 231-235.

[47] *Rot. Parl.* III, 13.

[48] "That the ports of Ireland may bee open to those that shall come to accuse the lord lieutenant. But this onelie to desire the lords and they the king that some fitt course to bee taken that there may bee free passage betweene Ireland and England for the Kings subjects notwithstanding the proclamation to the contrarie or other impedement." Palmer, f. 39. *Cf.* C.J. II, 26.

[49] This refers to Robert De Vere, Duke of Ireland, who was sentenced by the Lords, Feb. 13, 1388. The Bishops did not take part in his trial. See *Rot. Parl.* III, 230-236.

Bishops are to depart in cause of blood *ratione ordinis,* and they ought not to meddle in things of this world.[50]

Sir Simon Baskervile confessed hee spake with Price but only to know what was the cause hee was sent for at Leicester howse, hee confessed hee once mett Secretarie Windebanke but hee denieth the wordes spoken by Secretary Windebanke touching refusers of paying the Ship-money that they were Traitours. And soe hee denieth the rest etc. Dr. Radimond denieth all.[51]

November 12. Thursday 1640.

The Irish Preist William Ockonner[1] should have been tried this day at the Kings Bench but this howse orders that the cause bee staied in respect the cause depends here.

A select Committee is appointed to prepare the Articles against my Lord Strafford.[2]

Mr. Pymme moved for too morrow morning to take into consideration the Kings Army and the Northerne parts, and it was soe ordered.[3]

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[50] According to Peyton's account (f. 12) St. John was followed by Mr. Glyn who "Thought this an entrenchment on the Priviledges of the upper house, and the Lords would themselves take this into consideration." From then on the order is that of C.J. II, 26-27, the resolution accusing Strafford of high treason wedged in between the examination of witnesses against Windebank. Gardiner has given us the impression that this accusation was the result of debate in the House, but the evidence from Palmer and Peyton shows that he was wrong on many small points that lead to that conclusion. It was not ostensibly for that that the doors were closed but in order to carry on the accusations against Windebank. Under cover of that and the general complaints that had been made it was easy for him to bring about the appointment of a close committee (whose work was to be much more general than it turned out to be), make his report, and get the resolution through, seemingly without allowing the attentions of the great body of the members to be diverted from the main business of the day. For St. John's speech, see App. B, pp. 532-533.

[51] "In the matter concerning Secretary Windebanke; for the words that they were traitors that denied the King supplie last Parliament. But Price vouched the words to bee those that denied the shipmonie. Dr. Baskervile being vouche to bee present was called to witnes and denied hee hearde the words.

"So nothing done.

"The Secretarie was avoided the howse during the debate.

"The like with Price but both restored againe.

"Price not called to the Barr although hee did not prove the words against the Secretarie." Palmer, f. 40. *Cf.* below, p. 533.

[1] See above, p. 25, also Gardiner, IX, 237, and L.J. IV, 89. "A message sent to the Judges to forbeare proceeding against Okonnell the preist, because of weightie reasons knowne to this house." Palmer, f. 41. *Cf.* Peyton, f. 13, and below, p. 533.

[2] Some changes were made in the personnel of this committee; Earle and Hampden were added and Grimston took the place of Holles "at his own request to be spared out of that Committee." C.J. II, 27. Holles's reason for withdrawing was undoubtedly his close relationship to Strafford. His withdrawal shows how completely the purpose of the committee had changed from general to particular.

[3] Next in order of business was a message to the Lords in answer to theirs of the day before. See C.J. II, 27. There was evidently a debate on the wording to be used in answering the Lords. Palmer (f. 41) says: "Declared the language off the house should bee to attende the busines or the service not the lords." Peyton (f. 13) says:

Jealousies of the Irish etc. as the examination of one at Bastable who saied the King and the Pope was all one.[4] Hee is in prison now there.

Alderman Pennington saied that the Cittie of London offer a garde.

A meeting was appointed this afternoone at 3 of the Clocke in the painted Chamber touching a relation of the Scottish businesse.[5] The reporters for us are Sir Thomas Roe, Mr. White, Mr. Selden, Mr. Grimston, Mr. St. Johns, Mr. Sollicitor.

The Judges of the Kings bench will obey the commands of this howse and will not goe on in the triall of the Jesuite till further order from this howse.

Two. Cheife Justice Littleton and Davenport brought a message that all the portes betweene England and Ireland were commanded to bee kept open.

Mr. Pymme moved that Sir George Ratcliffe as a delinquent and Sir Robert King as a witnes should bee sent for. A Committee was to consider whether these two men could bee sent for being now members of the howse of Parliament in Ireland and to report their opinions to the howse.[6]

Sir John Culpepper saied who bailes a man or releaseth anyone that is in for Treason is guiltie of Treason himselfe.[7]

Mr. Weekes Keeper of the Gatehowse his examination of Preist Fisher committed by the Lordes and discharged by Secretarie Windebanke. John Goodman was committed; and discharged by Mr. Secretarie. Thomas Raynolds was convicted and committed: and discharged by the same: And Warants were produced under the Secretaries hand to the same effect. And hee acknowledges that to bee his hand.[8]

Rowland[9] Johnson Keeper of Newgate charged Mr. Secretarie Windebanke for discharging of Mors[10] and Goodman.

"Wee must say wee will attend the service and nott the Lords ect. the house will take convenient time and not Desire a convenient time." Further on, Palmer (f. 41) gives another form: "The house will give meeting when itt shall stande with ther occasions. For the matter propounded att the conference concerning breach off priviledges by some members of this house will take a convenient tyme." *Cf.* with final wording in C.J. II, 27.

[4] "Informed by a Gentleman, a member, That one was upon the staires with a pistoll under his cloake last night; and 12 Irishe men with swordes and pistolls.

"Mr. Rouse said a Scotchman told him that a Papist said, Our throats should all bee cutt.

"Mr. Peard, of an Irishe man that saide the King and the Pope were all one." Peyton, f. 13. *Cf.* below, pp. 533-534.

[5] This is a conference with the Lords.

[6] This was a result of Clotworthy's query. *Cf.* below, p. 534. The members of this committee are enumerated in C.J. II, 27.

[7] Peyton (f. 13) adds, "as it was treason to baile one accused of treason."

[8] "Mr Secretary was asked if hee would avow his hand to the warrants of releasements of Jesuits and Preists, ect. Hee did and was bid withdrawe." Peyton, f. 13.

[9] Richard.

[10] Mosse.

SIR THOMAS JERMYN saied that being commanded by the King, hee tolde us that the King ownes the dischargeing of Preists and Papists. etc.[11]

MR. GLINN moved who gave the King notice it being a thing in debate and that was a plaine breach of the privilidge of this howse.[12]

MR. PYMME saied a verball Warrant or in Writing was no discharge to Mr. Secretarie. Mors was a convicte Papist and repreeved before Judgment.[13]

f. 6b] November 13. Friday. 1640.

My[1] Lord Mountnorris desired to have the view of some letters that were alledged to bee sent by his Majestie to my Lord Lieutenant concerning the erecting of a Marshalls Court. Sir Henry Fane tooke this to his care at the Treasurie Chamber about foure of the Clocke this afternoone to receive petitions against my Lord Lieutenant and to prepare the Articles. Report by Mr. Sollicitor concerning the sending for Sir George Ratcliff and Sir Robert King, and the Committee thought it fitt they should bee sent for; because it was a safer way to goe upon cleere grounds[2] then scattered instances.[3]

For Sir George Ratcliffe; if his accusation prove true it is high Treason, and Treason is out of the privilidge of Parliament. As for the sending for Sir Robert King as a witnes there is a difference where it is for any other ordinary court that setts alwayes there the witnes cannot bee sent for the man being a member of the Parliament in Ireland.

Otherwise when the high court of Parliament sends for one from Ireland to give testimonie here against one accused of high Treason, the Parliament not setting alwaies, and soe it is cleare that it is noe breach of the privilidge of Parliament.[4]

It was ordered that Sir George Ratcliffe should bee sent for as a delinquent and Sir Robert King as a witnes, and to bee sent for by severall messengers.[5]

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[11] "The King having taken notice of the accusation laide against his secretary . . . did command him to signify to the house That hee had commanded his Secretary to give warrants of releasements for sundry Jesuites and Preistes." Peyton, f. 14.

[12] Peyton (f. 14) adds, "and soe Mr. Pimme." *Cf.* below, p. 534.

[13] After Pym, "Mr Rouse delivered an information of a designe the Papists had to cutt the throates of the Parliament." It was ordered that the Grand Committee should meet in the afternoon that the Speaker "might reassure the House, to bee ready" when the Lords should ask for them, "that the Lords Commissioners at Rippon might declare to them the state of the Treaty and of the Scotch affairs." Peyton, f. 14.

[1] For first part of this day see C.J. II, 28, and App. B, p. 534.

[2] *Cf.* C.J. II, 28.

[3] "They had not seene any president but conceaved this case would stande upon groundes off reason." Palmer, f. 42.

[4] "That Sir Robert King . . . might bee sent for . . . to give his testimonie. And that there was a difference betwene an Indictment in an Inferiour and Residentiarie Court althoughe for a Treason may bee questioned whither a Parliament man may bee sent for to witnes. And an Information in Parliament which was but a temporarie Court and could not staie." Palmer, ff. 42-43.

[5] *Cf.* C.J. II, 28.

The howse was dissolved into a Committee touching the Northerne businesses[6] etc. Before wee went into the debate[7] a letter sealed and directed to the howse was brought the Speaker went to the chaire and read the letter[8] it came from Harrison[9] and afterward reiected a consideration to keep together his Majesties Army, and for a redresse of the North parts.

Sir John Strangwaye[10] desired (Example 1 R. 2)[11] supplie to bee given for the warre and named the Treasurers who tooke their oathes for honest laiing out.[12] Hee saied that hee heard that one hundred thousand pounds for the present would keepe the Armies together and doe the other busines etc. This hee moved in respect of the necessitie, and that noe subsedies should bee irregularly granted but in the right order (*videlicet* last of all) etc.

Sir Miles Fleetwood moved that a summe of money for the busines not by subsedie but by borrowing or some other short way to raise it and that for supplie, and to appoint Treasurers of our owne. Hee thought the Cittie of London would lend the money.[13]

Sir Thomas Roe saied hee thought that supplie might bee had from the Cittie. And this could not bee had by his Majesties Commissioners for the Commons of the Cittie refused etc. not as hee beleived out of any backwardnes but in respect to the Parliament, especially the lower howse. This was a moderate and discreete answeare and if this howse inclined to it then the Cittie would bee much incouraged for a supplie etc.[14]

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[6] Moved by Lord Digby. Palmer, f. 44.

[7] The house went into committee and then a letter was brought in "which could not bee reade [unless] the house sitting and the speaker in the chaire. Therefore the committee was altered and the speaker in the chaire." Palmer, f. 44.

[8] Peyton (f. 15) in a marginal note remarks: "The parliament about this time caught on anything which might come." Of the letter he says: "The Speaker to looke it over first, to see if it bee fitt to bee read in the howse. He thought it frivolous and it was cast out."

[9] "The letter was from Harrison touching that business with Justice Hutton." Palmer, f. 44. Sir Richard Hutton had in 1638 given a decision in Hampden's favor, contrary to his former declaration with the other judges in favor of ship-money. Thomas Harrison accused him in the Common Pleas of high treason, for which contempt he was prosecuted, fined, imprisoned, and compelled to make submission. See *D. N. B.*, *sub* Hutton.

[10] "The worke in hande to reteine the Kings armie that itt may not bee disbanded and the English counties reteined. Hee remembered 11 R. 2 [*Rot. Parl.* III, 244]. The contribution for the seas with a protestation itt should not bee drawne in consequence for suplies before greivances were releived."

"A maxime at court to receave Iniuries and give thankes but not for the Commons who have borne such pressures." Palmer, f. 44.

[11] 1 Ric. II, no. 27, *Rot. Parl.* III, 7. Peyton (f. 15) errs in making it 1 Ric. I.

[12] "The monie should bee expended to that use." Palmer, f. 44.

[13] "That the ground of all there troubles was first grounded on the service booke and comes from the cleargie. For the supply hee would nott have 'em talke of a subsidy butt fixe on a certaine summe." Peyton, f. 15.

[14] "The Londoners refused to lend the King moneyes, because they could nott tell how the house of Commons now sitting would take the loanes or gifts by them made, and therefore would see if the house of Commons would allow of that way; that then they would willingly sett to their endeavours." Peyton, f. 15.

Sir Hugh Cholmeley saied hee thought a Subsedie would bee best. And to appoint some of the Cittie to bee Treasurers, and then the Cittie for the present would lay downe the mony and then desire to pitch upon the summe.

Sir Robert Harlowe thought 100000£ best but not by Subsidie.

Sir John Hotham desired rather the old way of Subsedie then the new way of benevolence and desired as much for the summe as our Subsedie would come unto.

Sir William Udale saied that the Kings Army cost him 20,000£ a moneth, and that the Army had been paied untill the 10th of this moneth. And 14 daies would bee spent before the money could bee carried to the place where it was to bee paied. And if wee pleased hee would give a particular of the charges of the Kings Army.

Mr. St. Johns and Sir William Witherington moved to have the Scottish Army taken into our consideration.

Mr. Pymme was against it and moved that wee might looke backward to the moneth already elapsed wherein the North parts were forced to a contribution.

Sir Henry Fane moved to the manner for raiseing of the moneyes: money would hardly come by subsedie in the time requisite but by supplie of the Cittie and certainly it must bee granted here by subsedie and wee shall have Treasurers of our owne first consider the inducement that must leade this summe.[15]

Mr. Pymme moved that the best way to supply was by way of contribution and declaration.[16]

Mr. Hampden desired that wee might goe by way of Subsedie and the question was whether the supplie etc. should bee granted by Act of Parliament or by Declaration.[17]

[15] "Would have them appoint Treasurers of their owne, to see the money rightly disposed of. Hee said the Scotts had given security to many in generall for divers things had, and particularly to some in Durham.

"Mr Grimston said, The rumour of the Parliament approaching and nott meerly the Security of the Lords procured the money of the citty.

"Sir Thomas Witherington said that hereafter wee shall bee able to raise a great summe of money of monopolists, and the makers of the late Canons ect. and others persons whose estates will bee found liable to the censure of that house.

"Sir John Clackworthy. Before a subsidy bee granted, a bill must bee drawne, which will bee long and the money long a raysing. Hee would have a sudden supply, though it would hold the affaires together butt for a fortnight ect. till wee should further provide.

"Mr Hollis said hee hoped the Lords should bee sharing contributors to the levy of the certaine summe or supply intended.

"Mr Vassorn said the Lords were already engaged to the citty for great summes of money." Peyton, ff. 15-16. Vassorn is Samuel Vassal of London.

[16] "Likes nott a subsidy, nor anything granted to the King; butt to bee a contribution raised on the whole kingdome; which summe shall bee committed to the hands of treasurers of their own naming. . . . 14 Ed. 3 a grant and noe subsidy was given the King." Peyton, f. 16. For the allusion see *Rot. Parl.* II, 128, 130.

[17] At some time during the debate Sir Thomas Widdrington "offred a petition

It was voted to bee by Act of Parliament and it was concluded that the summe for supplie must bee certaine,[18] and that is 100,000£.[19]

f. 7a] November 14.[1] Saturday. 1640

Mr. Correton was questioned for sending a blanke Indenture.[2]

Mr. Richard Buller[3] was questioned for being inserted into a blanke Indenture etc.

A Committe was appointed to consider of these blank returnes and the other charge of complaint against Correton.

Sir Henry Fane brought a message from the King in answer to the howses command to the Counsellours of this howse etc. First his Majestie hath given directions to send for Sir George Ratcliffe and Sir Robert King, and as for the letters that my Lord Mountnorris desired yesterday. In regard Sir John Cooke had the letters and affaires of Ireland then in his hands nothing for the present could bee done and hee shall bee sent unto with all expedition and noe time shall bee lost.[4]

Mr. Grimston moved for a Warrant to bee produced by Sir Henry Spiller, that its thought was given by my Lord Lieutenant.[5] Hee complained also against Sir Henry Spiller and hee was sent for as a delinquent, by a Serjeant at Armes.[6]

Mr. Bagshawe *de Jubile societatis Jesuitae* the King having warres in

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from the countie of Durham. But itt could not bee reade the house being in a committee." Palmer, f. 44. For this debate see App. B, pp. 534-536.

[18] "And not by subsidie which was incertaine and might bee raised above the intention." Palmer, f. 45.

Palmer adds: "Itt was desired some intimation might bee given to the citie; that for the instant use which was off this monie they would furnishe itt and should bee repayd out off the 100 000£ but noe order for itt. For itt was a loane.

"Ordered the officer should attende with the Accounts for the last Subsidie; what everie countie payd that accordinglie this summe might be proportioned.

"Itt was moved whither the Clergie should bee involved but noe order."

[19] On Pym's motion it was ordered that the King's Remembrancer should certify how the counties were charged in payment of the last subsidy that the Houses might conform in this levy. C.J. II, 29; Peyton, f. 16.

[1] The C.J., Peyton, Palmer, and Bodvile give closely similar accounts for Nov. 14 and thus make ridiculous the assertion of Rushworth and *D.O.* that the Commons did not sit on this day. Rushworth throughout this part of parliament is using *D.O.* and various "separates."

[2] See App. B, p. 536; *Cal. St. P. Dom. 1640-1641,* 262.

[3] See C.J. II, 29; Peyton, f. 17; Palmer, f. 45. Both Buller and Coriton were ordered to withdraw from the House. C.J. II, 29.

[4] "That hee would advise with his late Secretarie Cooke about the letters for the Marshalls Court from my lord Mountnorris." Peyton, f. 17.

[5] "Informed of a letter from the Earle of Strafford, wherein hee had written that by the Lawes of the Land, the Law of Nations and the Law of Nature, every subject is to obey the command of his superior." Peyton, f. 17. *Cf.* p. 536.

[6] See Rushworth, IV, 54. After Grimston's speech, Sir Walter Earle said: "That Sir Henry Spiller should bee sent for by a Serjant at Armes and that if hee were found guilty of the supposed crimes, hee had an estate very considerable to bee made use of for the present occasions." Peyton, f. 17. Peyton comments in his margin: "Men's estates began to bee tooke notice of likewise." Royalists asserted that Earle

Scotland they would fish in troubled waters. They had given the King a potion but it would not worke. But the King should have such a potion as should worke.[7] T. Jude[8] had this booke at Redriffe from one H. Gradwell a Cobler whose wife is a papist, it was sent from Roterdam, there was a prayer in it to the holy Martirs[9] that suffered Shipwracke here 1639. The booke was delivered to my late Lord Maior.[10]

November 16. 1640. Monday.

Mr. William Watkins[1] was questioned for a Proiector and kneeled at the Barr for offending in sitting in the howse as a Proiector;[2] and a Select Committee was appointed to consider what Proiectors did sett in this howse.[3]

Sir John Melton was complained offe as a Proiector in Coale at Newcastle.[4]

My Lord Buckhurst was returned for East Grimsted.

Sir John Wray moved that a Chirurgion affirmed that one was brought before the Atturny generall and confessed that there was a great plott, that within 14 daies would bee attempted against this Kingdome. This was confessed upon Saturday last. Mr. Attourny was sent unto for the examination.

Sir William Udale brought in his account touching the charge of the Kings Army.

Alderman Pennington related that the Cittie mett to conferre of the supplie for his Majesties service which this howse was about to grant the King by an Act. All the reasons were declared to the Cittie, and the Cittie declared their willingnes as farre forth as they were able and this by granting presently by waie of loane 25000£ and as much more in

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profited from the troubles. See *Sarcastic Notices of the Long Parliament* (1863), 16. "And a committee speciallie apointed for Sir H. Speeler." Palmer, f. 46.

[7] "Informed of a Booke intitled *The Jubilee of the Societie of Jesus.* These passages in itt videlicet. They should take advantage off the warr with the Scotts. That they had given the King a potion but itt would not worke. But they would give him another should." Palmer, f. 46. *Cf.* App. B, p. 537.

[8] The Commons voted that Chude and Clay, "that informed Mr Bagshawe of the Booke," should be brought in (Palmer, f. 46); they were examined and gave the evidence that begins with this note. See C.J. II, 29, Palmer, f. 46, and below, p. 537.

[9] "They made praiers to Garnet. To the Martirs in Vantrumps business." Palmer, f. 46. The martyrs must have been the 5000 Spanish Catholics said to have been lost in the battle before Dunkirk in 1639.

[10] "He [Chude] delivered the Book, the same day he had it, to the sheriff of London, Sheriff Warner." C.J. II, 29.

[1] About Watkins see App. B, p. 537.

[2] "Mr. Watkins commanded to forbear the House till his Business had received a further Examination." C.J. II, 29. "A committee apointed to serche patents off all monopolies and proiects and to certifie to the committee off trade." Palmer, f. 47.

[3] An order had been passed on Nov. 9 disabling monopolists and projectors from sitting in the House. C.J. II, 24.

[4] Sir John Marley, according to Rushworth, IV, 52.

convenient time. The Assemblie was but thinne upon Saturday last in the Cittie but this day the Cittie meetes againe.[5]

Mr. Vassall saied that the busines of London Derry in Ireland did much exhaust the Cittie this stickes heavie upon them to one hundred and sixtie thousand pounds. The seizing of the Mint was a hinderance and a stopp to their tradeing the French hath taken away our gold and silver goes away a pace by them by secret warrants. This is a secret convaiance of the Treasurie of the Kingdome.

And though there bee an Act passed here for the money etc. yet in the Cittie particular men will demande what securitie they shall have for their money. Hee thought that the best way was that the Aldermens crednitt should raise the money and that for their securitie some of them ought to bee appointed Treasurers.

Mr. Cradocke saied hee feared it might hinder the busines to relie upon the Aldermen.

Alderman Pennington thought that if the securitie bee here considered offe the money would bee had some way or other.

Another motion was made that the Souldiers of London Tower should bee discharged being still as yett in the Tower.

f. 7b] Mr. Herbert saied that my Lord Cottington tolde him this day the Souldiers were to bee discharged, and that they had been discharged before but the moneys were not as yett readie etc. The money comes in this day etc.[6]

Mr. Cradocke saied that unlesse the ordinance bee dismounted such iealousies and feares would possesse the Cittie that it would bee a mightie hinderance to the busines of supplie.

Alderman Pennington excepted against the not inserting of the Non Convicte recusants as well as convict and yet Sir Henry Fane saied this day sennight that all papists as well convict as non convict should bee comprehended in the Proclamation but it was not done.

It was ordered[7] that those Aldermen or others which should secure the money to the particular lenders should bee the persons that should receive the Subsedie money for the securitie. After a long debate which parties should bee exempted, from subsedie etc. It was resolved upon by Vote that Northumberland Durham and Newcastle should bee exempted from paying Subsedie: and the Towne of Barwick must bee charged with Subsedie.

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[5] In Palmer (f. 47) Alderman Pennington is made to say: "They had intimated to the Lord Maior the desire the citie should furnish monies. They had mett and were acquainted with the necessitie off a speedie releife in respect off the dangers iff the armie should disband which may bee more pernitious then an enemie. They obiected the greivances upon them. The greatnes off the somme. Yet a greate readines and chearfullnes. But considering the greate summes they had furnished alreadie: They could furnishe noe more then 25000£ for present and 25000£ within a short tyme after." Palmer adds: "The house turned into a committee touching the 100,000£ and Securitie for the Cittie, Mr. Sollicitor to take the Chair." *Cf.* App. B, p. 537.

[6] C.J. II, 29-30.

[7] According to C.J. II, 30, this order followed immediately the report, by the Solicitor, of the Committee of the Whole.

At the Committee for Religion[8] a petition was delivered by two Ministers and beneficed men for many of the clergie of the Countie of Lincolne. Touching matters of Religion. Increase of Poperie. Renewing of idle and frivelous ceremonies. Against cannons that none herafter should bee made but by consent in Parliament. To have mariage lawfull at all times. They desired to have some severe Law against fornication and adulterie and desired a prohibition for profanation of the Lords day.

A Peticion of Grantham in Lincolneshire concerning the Altar etc. (This was complained offe in the last Parliament) against Dr. Farmery and Dr. Hurst for putting Organs upon the towne and they that opposed it were brought to the Ecclesiasticall Courte and forced to the oath *ex officio*. William Berry is the petitioner who was excommunicated by Doctor Farmery. The Petitioner desired a fortnights time to produce his witnesses.

John Spencers Petition for setting upp an olde altar stone by the officiall which formerly the Bishopp had taken downe. This was deferred untill this day sennight.

A petition of the Parishioners of St. Christophers in London complaining against Dr. Baker and his Curate for removing the Communion Table Alter wise and divers other Ceremonies and Popish Innovations etc. and refuseing the Communion to such as came not upp to the Railes. The time to prove this petition was this day sennight.

A petition of the Parishoners of St. Gregories. This Church was made before the Conquest and about 4 yeares agoe the saied Petitioners laied out 1500£ upon repaire of the saied Church. Yett for all this part of the saied Church was pulled downe to repaire St. Pauls and the rest is threatned to bee pulled downe, and there is no redresse but the petitioners are inforced to goe to other Churches for their Spirituall foode to their great inconveniencie. Their servants being by this enticed to a great disorder.[9] Time till Monday next.

The Petitions of Churchwardens and Seidesmen of London against the oath, Articles an[d] Canons and other Ecclesiasticall greivances.

It was ordered that a select Committee should consider of these petitions.

Edmund Pottin his Petition against William Giles minister for erroneous doctrine and because the said Petitioner tolde the Parishioners that the said Giles taught them false doctrine the Petitioner was excommunicated by Doctor Eden. The points that the saied Giles held were popish and hee was accused as guiltie of Adulterie and incest. Hee was litigious and drunken seldome preached, never praied for the King, nor never gave any thankes upon the 5 of November. Sir John Lambe sentenced the saied Petitioner etc. Doctor Eden Excommunicated the Churchwardens of Wisbige for not turning the table Altar wise.

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[8] All that follows in Bodvile for this day is evidently at the Committee for Religion.

[9] *Cf.* with White's report to the House, Nov. 25, from the Grand Committee for Religion. C.J. II, 35.

November 17. Wednesday[1] 1640.

This was the day appointed for the generall fast; which was celebrated by the Howse of Commons in St. Margarets Church in Westminster. Dr. Burgesse preaching in the forenoone and Mr. Marshall in the afternoone. I myselfe was present at Mr. Marshalls sermon.[2]

f. 8a] November 18. Wednesday. 1640.

It was ordered that matters of Religion should preceede other businesses.[1]

Noe member of this howse should visitt my Lord Lieutenant without licence of this howse.[2]

A report of the treatie of the Lords concerning the Scottish affaires upon

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[1] This should be Tuesday.

[2] This notice is in D'Ewes's handwriting and the word "I" appears for the first time. He did not, however, turn up in the House until Nov. 19. Peyton (f. 18) gives an account of the day of fast: "This day was the day design'd for the fast: which was solemnized in St. Margaretts Churche in Westminster. In the forenoone there Preaching Dr. Burges: his Text taken out of Jeremy, c. 50. v. 5. His sermon tended to moove the Parliament to enter into a Covenant of Religion. Hee said, This very day was 82 yeere was the reformation begun by Queene Elizabeth.

"In the Afternoone Preached Mr. Marshall: His Text taken out of 2. Chron. c. 15. v. 2. in *haec verba*. The Lord is with you, soe ye bee with him. Hee mooved alsoe to enter into a Covenant of grace: and made muche the better sermon upon this day."

Baillie, writing on the following day, Nov. 18, says: "Manie ministers used greater freedome then ever here was heard of. Episcopacie it self beginning to be cryed down, and a Covenant cried up, and the Liturgie to bee scorned. The Toun of London, and a world of men, minds to present a petition, which I have seen, for the abolition of Bishops, Deanes and al their aperteanances. It is thought good to delay it till the Parliament have pulled doun Canterburie and some prime Bishops, which they minde to doe so soon as the King hes a little digested the bitterness of his Lieutenant's censure. Hudge things are here in working." *Letters and Journals,* I, 273-274. Baillie's comments indicate how fully a single master hand was in control, or two or three united master hands.

Nalson (I, 530) gives the fullest account of the sermons.

[1] Mr. White reported from the Committee of Religion. After his request for a debate on the canons Friday had been granted, he "reports further, that since there bee very many matters come before the Committee of Religion, That they desire to have another day, and it was Ordered to bee Saturday in the afternoone." Peyton, f. 19. Monday was also set aside for the Grand Committee of Religion. C.J. II, 30. Palmer (f. 48) makes White signify "the desire off the committee off priviledges to sitt evrie Saturdaie and Mondaie." For business before White's report, see App. B, p. 538.

[2] Peyton (f. 19) adds ". . . none that were of the house, noe nott his owne brother that was of the house." Manchester's comments at this point (32v-33) deserve quotation. "This great man had gained soe great an interest in the Kings affection, and soe great an esteeme of his abilities (as a person whome any prince might rather be afraid then ashamed to employ) that all endeavours were used to free him from his present imprisonment, and the multiplicity of businesse which the parliament had, gave them time, both to make parties in the houses, and to designe other wayes for his Escape or release, and if his owne confidence had not deluded him his escape might have been easie and safe, for the King himself offered to have come unto the Tower, and to have opened the Gates, and to have given him that opportunity to have gone

Thursday last related by SIR THOMAS ROE reports the Propositions at the Conference at Yorke.[3] The distresse of the Army etc. That after the Scotts had come to Newcastle they sent a petition to his Majestie for redresse of their greivances etc. To which it was answered that untill they sett downe the particulars hee could give noe answer. And hee commanded the Scotts not to advance and the Scotts advanced noe further. And sent a petition more particularly etc. Freedome of the Castle of Edenburgh. That all the Scotts might signe a Covenant, that shipps and goods might bee restored; and all papers made against us might bee recalled; that losses might bee repaired: the souldiers might bee removed from those borders. etc. An answer to this petition was referred to the Lords at the Conference.

My Lord Traqueire made a relation to the Lords of the Statutes of Scotland etc. My Lord Lieutenant generall made relation of the state of his Majesties Army. A relation of the disorderly retirement of his Majesties Army at Newborn. The men of Durham had answer from my Lord Lieutenant that the King could not helpe them, and they must shift for themselves and soe bee forced to a contribution of 850£ *per diem*. The Scotts complaint to our Lords that their Countrey should bee brought to a Province that was but one summers worke, etc. This and other reasons urged them to enter England contrarie to their first intentions that the Lords of the great Counsell made election of Commissioners by his Majesties approbation to treate for conclusion of peace.[4] The place for treatie which was first appointed was Northalerton but after some inconveniencies found there they came to Rippon and there went on with the treatie upon the whole busines propounded. A cessation of Armes was first treated offe but the Scotts saied that there was another thing which ought first to bee taken into consideration, which was, maintenance for their Armie. This troubled all the Lords, but the necessitie of both Armies forced them to give his Majestie notice of it, and resolved to treate for a summe to maintaine the Army least the Scotts should plunder the Countries; and the maintenance which was resolved upon was only the allowance of the former contribution assessed upon the Countries this being more honourable then to give them any other manner of maintenance. The Lords were much troubled for giving maintenance whose ancestours had treated for the ransoming of Kings should now consider for the supplie of an Army that had invaded the land.

Articles of agreement for cessation of Armes and for peace for the time

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beyond the Seas, which at that tyme could not have been prevented, but he would not be persuaded that the malice of his Adversaries could have reached his life."

[3] This is a report of the relation made at the meeting of the Committee of Both Houses by the Earl of Bristol. See Peyton, f. 19, and Palmer, f. 48. For text of this report see *S. and P.* 209-220.

[4] For the details of the Peers' meeting at York *cf.* Hardwicke, *Miscellaneous State Papers from 1501 to 1726* (1778), II, 208-298.

were agreed upon. The Parliament comming on etc. The Lords petitioned the King that the treatie might bee transferred here to London. The King asked the Lords whether hee should signe the Articles and the Lords advised his Majestie to signe the saied Articles. The Lords reasons for advising his Majestie to signe the Articles of Treatie and for releife of his Majesties Army. The Lords sent to the Cittie of London for the loane of two hundred thousand pounds and his Majestie ratified the Articles of the treatie with the Scotts, etc.

My Lord of Bristow related the woefulnes of the affaires of the busines in the North. Then the Lords promised to relate to the Parliament the miserie of the North: yett they desired not to have any Subsedie. Yet if some course were not taken the whole Kingdome would bee brought into disorder and if consideration bee taken of the Scotts Armie why not of the Kings Armie. We ought not nor might not bee disbanded. The Scotts protested not to doe harme: but there is noe good trusting of a hardie Army when they come to a good Countrey; then it may bee if they themselves like the Countrie they will disobey their Commanders when it is required by them to retire.[5]

It was ordered that the whole report should bee entered here that all might have copies.

Mr. Pymme moved that thankes might bee given to the Lords for their paines in the treatie etc. and Sir Thomas Jermyn desired first that his Majestie should have thankes.

Mr. Stroud moved that the Lords should have thankes for their Petition to the King for a Parliament.

It was ordered that there should bee an entrie into the Clarkes booke and an acknowledgment of thankes first to his Majestie and then to the Lords for their great paines in the treatie and the Commonwealth thought it selfe much beholding unto them for their Lordships care of the Kingdome. And some 4 were named as a Committee to see this entrie made. The Committee that was to viewe the Clarkes booke was to consider of the Entrie.

f. 8b] Mr. Pymme moved for a Committee to consider of the Articles against my Lord Lieutenant and desired direction of this howse. 1. What to doe for the witnesses that were backward to come in etc. 2. Hee desired further time for soe much businesse came in that further time is desired to disgest it into order. 3. That if any member of this howse did know anything that might conduce to this charge, if any such member did conceale his knowledge then such members shall bee taken as guilty of misprision not as accessorie to the Treason.

It was ordered that the Committee for Religion should sett every Saturday and Monday. Thankes was to bee returned to the Preachers yesterday.

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[5] See App. B, p. 538.

First in answer to Mr. Pymmes motion touching the witnesses it was ordered that a message should bee sent to the upper howse to tell them that wee as Accusers would drawe Interrogatories against my Lord Lieutenant, and to desire their Lordships by a Committee of theirs, before a Committee of ours[6] might examine such witnesses as are fitting and soe to keepe all things secret untill publication were convenient, this was according to the ancient Presidents.[7]

Upon Friday next it was appointed that there should bee a Conference concerning the Canons.

Sir John Clatworthie complained against William Frestone for calumniating the Lords that petitioned the King for a Parliament and It was ordered that this peticion should bee inrolled and a declaration that it was lawfull, and thankes should bee entered in the name of the whole body of the Kingdome, being an Act expedient both for King and Kingdome.[8] It was ordered that Frestone should bee sent for as a delinquent.[9]

f. 9a] Thursday. Nov. 19. 1640.

I tooke the oaths of Allegiance and Supremacie this morning in the presence of Sir Gilbert, one of the Lord Stewards Deputies, and soe came first into the Howse this morning.[1]

A Committee for Monopolies.[2]

Mr. John Maynard of the Middle Temple made reporte of a controverted election in the towne of Marlow Magna in the Countie of Buckingham betweene Mr. Hobbie and Mr. Burlacie, that the election was made at the pound secretlie and illegallie; and that the cheife miscarriage was by an inhabitant ther named Mr. Moore who having the precept conceales and denies it and soe when the day of election of the Burgesses came hee and his accomplices did it. Soe the election void. I saied all. And Moore sent for [as a] delinquent I saied all. A new writt to bee sent for a new election and the last election to bee void as before. Ruled alsoe upon the question. Mr. Burlacie returned in both Indentures and therfore it was moved hee might sitt but denied because all was void.[3]

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[6] "In presence of some of the Commons." Palmer, f. 48.

[7] Pym was to go up with the message, with as many as were pleased to go with him. C.J. II, 30. At about this point, "Mr. St. John said, That now the Commons had accused him the upper house was possesst of it, and had the cognizance of the cause if the Commons should goe noe further in the charge. Butt the kings Atturney, if the Commons should goe noe further, was to prosceute the cause *ex parte Domini Regis* till matters appeare either to acquitt him [or to] condemne him." Peyton, f. 19.

[8] See C.J. II, 30; Rushworth, III, 1259-1260; App. B, p. 538. The petition ordered enrolled is not in the printed *Commons Journals*. See N. and R. Introduction.

[9] This is the end of Bodvile's account of the proceedings on the 18th; though under that date he gives events which occurred the next day. These will be given as footnotes to D'Ewes's own account.

Peyton (f. 19) puts at the end of this day: "At the Committee for Grievances. Alderman Abell . . . confessed that Mr. Kilvert received 500£ per annum, the Lord Marquis Hamilton 4000£ per annum, Sir James Hamilton 1000£ per annum out of the Patent: and 1000£ was given to Kilvert who gave my lord Marquis another 1000£ to procure this Patent." About Kilvert see below, pp. 263, 546. See also *Cal. St. P. Dom. 1640-1641,* 289-290. For the committee meeting see App. B, pp. 546-547.

[1] This is D'Ewes's first appearance in the House. From this time on the larger part of the journal is in his handwriting, although we shall see that he was not responsible for the whole record.

[2] New members were added to the Committee for Monopolies, among them D'Ewes. C.J. II, 31.

The question was whether the poore should have voice or noe. SIR HUGH CHOLMELEY mooved they should have voices.

I mooved that the poorest man ought to have a voice that it was the birthright of the subjects of England and that all had voices in the election of Knights etc.

MR. MAYNARD mooved that the poore should not have a voice.

SIR MILES FLEETEWOOD mooved they should not have voices: if ther bee presidents.

SIR JOHN HOTHAM spake the poore might have voices.

SIR PETER HAIMOND spake the Commoners might have voices.

MR. BAGSHAW mooved poore men might have voice.

SIR FRANCIS SEYMOUR spake to end this mocion.

MR. WHISTLER spake that the poore might have voice.

MR. CROUCHER[4] spake the poore might to have voice.

SIR GILBERT GERRARD desired the mocion might bee left.

SIR ROBERT HARLOW spake that the Communion table should bee brought downe.[5] But that died.

MR. CREW spake against the poore having voice.

SIR PHILIP TUFTON saied the Kings armie was in great want.

Ther was an order read that the howse should bee dissolved into a Committee. Mr. Harbert the Kings Sollicitor went into the clarkes chaire. And the Speaker went out of his owne chaire.

Mr. Whistler spake how the summe of 100,000£ should bee levied and taxed the Lords would not bee taxed by us. And that wee may goe in the old way of subsidies and grant subsidies.

Sir Henry Anderson saied ther must bee speedie order to releive the armies and mooved for a subsidie alsoe to bee granted by the clergie.

Mr. Curtein[6] mooved to have a subsidie 100,000£ onlie certainelie.

Sir Miles Fleetewood mooved that the 100,000£ might not bee granted as subsidies.

Mr. Denzel Hollis saied this shall bee granted by act of Parliament.

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[3] See a complete history of the trouble in the introductory note to Verney, *Notes of the Long Parliament* (ed. by John Bruce, *Camden Soc.*, 1845, hereafter cited as Verney).

[4] Probably John Coucher.

[5] This is a reference to the removal of the communion table at St. Margaret's to the middle of the church at the time of the administration of the communion. See Gardiner, IX, 237.

[6] This must be Edward Kirton.

2. that it shall not bee by way of subsidie but by way of grant in a certaine summe. 3. a summe of 100,000£ in certaine. Perhaps in Wiltshire wheere the subsidie is 3,000£ when a subsidie is 70,000£ and then it will come unto ther some 3500.

Sir Ralph Hopton noe subsidies but other proportions.

Mr. Harbert the Kings Sollicitor being in the chaire mooved the Lordes monie might bee deducted out of the summe, and then the summe proportioned on the Counties.

Mr. Pymme mooved the summe to bee proportioned on the counties.

Sir John Hotham mooved that certificates might bee allowed. That one man might not bee rated in severall places.

Mr. Glynne mooved that certificates might bee allowed.

Sir Thomas Jermin the Comptroller, mooved because the busines was urgent to draw it to a question.

Sir Gilbert Gerrard mooved that noe certificates might bee allowed.

Sir John Culpepper moved to have certificates allowed.

f. 10a] Mr. Nathaniel Fines, second sonne to the Lord Say mooved that certificates might bee allowed and that men might bee rated wheere they lived, and noe wheere else.

Mr. Whistler mooved that without certificates it could not bee levied on them that weere assessed and lived elsewheere.

Mr. Capell mooved that some monie must bee granted above the 100,000£ to the cittie that gathers it.

Question. As many etc. (verbatim as in the order following)—viz to bee sett on the rate of the last subsidie.

Order. That the particular summes to bee charged upon the particular Counties shall bee sett according to the rates of the last subsidie paied by each countie.

The reporte to bee staied till the message bee sent.[7]

Mr. Speaker tooke his chaire.

Mr. Pymme moved concerning the charge of the Earle of Strafford Lorde Deputie being charged with High Treason, the two sortes of witnesses some about the Lords some about the Commons etc. all the Points to bee ordered.[8]

Sir Peter Haimond mooved that the members of this howse might onlie bee examined by the howse, and not by the Lordes.

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[7] The message concerning Strafford which, it had been determined the preceding day, to send to the Lords.

[8] "Mr. Pymme moved that in the message to the Lords it might bee inserted, that our howse had ordered that no member in our howse should presume to goe to my Lord Lieutenant, and that wee desired that the same order might bee made in the Lords howse. And withall to desire their Lordshipps to mediate the King that hee would bee content that his privie Counsellours and other members of both howses might bee examined in the case of high Treason: The oath of Privie Counsellours being noe examption from examination in this case." Bodvile, f. 8 b.

Sir Walter Earle conceived this mocion to bee of noe use.

Mr. Nathaniel Fines and Mr. Saint John mooved that the Lordes might not bee prescribed what to doe, for the examination of such Lordes as weere of ther howse.

The Lorde Digbie mooved that the assistants might bee added, or anie other which might bee in the upper howse.[9]

Sir Harbotle Grimston mooved that they might goe upp with the message, shall goe upp too morrow.

Mr. St. John mooved that the Recordes in the Kings bench of Attainders might bee searched[10] and this the Sollicitor denied.

I cited the Recorde in Rotulo Parliamentorum de a°. 46. E. 3. m. 2da n°. 43°.[11] That everie subject might have copies of anie Recorde though they [be] made against the King.

Sir John Hotham mooved that a committee may bee named to take care of this search and against the Earle of Strafford and all saied I.

Upon this I was added to the former committee in the Earle of Straffords busines as to the search onlie, and therupon ordered, that wee should search the Records as wee should thinke fitt.[12]

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[9] "Ordered that it should bee added to the message of Mr. Pymme agreed on yesterday, That whereas some of the Lords house may bee produced to bee examined as witnesses and may bee of the Privy Counsell, as alsoe some of the Commons, That there Lordships would intercede in this soe farre unto his Majestie, that they that shall bee vouched as witnesses (notwithstanding they bee of the Privy Counsell and are thereby bound nott to discover the kings counsell, yett in high Treason they are bound to declare their knowledge) shall bee examined upon oathe. And so desire the Lordes to make such an order for their owne house that all Lords, Privy Counsellors, Assistants or others should bee by them at the Committee examined." Peyton, f. 20. *Cf.* C.J. II, 31.

[10] "Mr. St. John mooved that the members of the lower house might have free accesse unto the Records of Attainders in the kings Benche, kept under 3 locks, one key whereof is in the Lord Chiefe Justice hand, the 2 in Mr. Attorney Generall's hand, the 3d the Clearke of the Crowne keepes.

"Mr. Sollicitor desired that they would nott bee too hasty in such desires, for that hee would firste know if ever there hath beene the like done. Mr Pymme said, That those Records of Attainder were soe kept because noe body should pry into the Title of the kings Landes which were come to him by Attainder . . . Mr. St. John and others agreed, That the Act of Parliament does give Leave to evry subject to searche into Recordes, for therefore are Records made." Peyton, ff. 20-21.

[11] *Rot. Parl.* II, 314. This is D'Ewes's first citation. In a letter written to his wife on this day, he says: "I spake thrice this morning in the House and at my second speech vouched a record, which not onlie gave great satisfaction to the House, but ended a waightie and perplexed dispute it was then controverting. Upon this I was presentlie named in the House to bee one of the Select Committee, of which there are but seven, as I take it in all, to search recordes about former attainders which wee may applie to the Deputie of Ireland's case." *The Autobiography and Correspondence of Sir Simonds D'Ewes, Bart.*, ed. J. O. Halliwell (1845), II, 249-250.

[12] "It was ordered that a Selecte Committee should have accesse to these records, for by an act of Parliament and other Presidents. that all subjects ought to have accesse to all such Records of Attainders though it bee against the King. And the care that is put upon these Records is for the care and good of the Subject. a°. 46°. E. 3. m. 2. n°. 43°." Bodvile, f. 8 b.

Sir John Clatworthie mooved that wee all or anie two of us might search.

Sir George Wentworth brother to the Earle of Strafford mooved that hee might have libertie to goe see his brother.[13]

Mr. Harbert the Sollicitor made a reporte what had been agreed about the 100,000£ this morning and the same was againe voted in the howse which had been voted in the howse before being then resolved into a grand Committee.

f. 11a] The order upon this was read by which All the Lawyers of the Howse and divers others weere named to meete too day at two of the clocke in the checquer chamber.[14]

Mr. Hamden desired to know when the monie should bee paied the cittie of London who weere to lend this 100,000£ and to receive the subsidies.

Alderman Pennington saied the cittie would soon take order for 50000£.

Mr. Densil Hollis and Sir John Wray mooved the Communion table might bee brought downe into the Church next Sonday when the Howse was to receive at St. Margarets church.

Sir Robert Harlow made a motion to the same purpose.

Sir Gilbert Gerrard mooved the same.

Mr. Pymme mooved that the Committee alreadie appointed about the Communion might meete this night at 5 of the Clocke in the Treasurie chamber and ther to take order about the sacrament, etc.

Mr. Glynne and Mr. Bell added to the Committee.[15]

Friday November 20. 1640.

A mocion made that in a *Quare Impedit* in which Sir Thomas Woodhowse was defendant and judgment onlie to bee given etc. yet the Priviledge allowed.

A peticion delivered by Alderman Pennington against the monopolie of salt etc. saiing that other Monopolies begann to hang ther heads this onlie continued bold and impudent: it was preferred by the Saltsellers.

Mr. Cage mooved that the Patent might bee brought in and the bonds given: and that one Mr. Thomas Horth (of Yarmouth) might bee sent for and a waigh of salt was before xxx^{s} now tis 3£ and it decaies navigation.

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[13] "And to come heare to this howse as hee should thinke fitt," added Bodvile. For further detail see App. B, pp. 538-539.

[14] "This Committee is to prepare a bill for the grant of the hundred thousand pounds." C.J. II, 31. "Many gentlemen of ancient experience were added with the Lawyers." Peyton, f. 21.

[15] "At the Committee for Irish affairs. Wee cannott send to anyone about businesse whereof wee are nott possesst of.

"A Remonstrance of the Commons of Ireland to the Lord Lieutenant there of divers greivances and pressures ect. read here." Peyton, f. 21. *Cf.* App. B, p. 547.

It was further mooved that the referrees which approoved the Patent might bee sent for. And an order was made to that purpose.[1]

MR. MAYNARD mooved Mr. Horth might bee sent for as a delinquent and agreed.

SIR EDMUND MUMFORD[2] mooved that it might bee referred to the Committee of Greivances and soe the order was drawen.

MR. WHITEHEAD mooved that ther was at the doore an under sherife named Robert Horwood sheriffe of Hampshire 1638 [who] was written unto to forbeare prosecution of recusants; Hee was advized by Leonard Dare [who] advized him to conceale the busines and offered him 30£. The letter hee receaved was from Secretarie Windebanke.[3]

Upon SIR JOHN CULPEPPERS mocion Mr. Dare was to bee sent by a messenger as a witnes; and it was to bee referred to the committee for Papists. An order to this purpose.

MR. WHISTLER[4] mooved that the Irish had preferred a Remonstrance against the Deputie and gett a copie of this Remonstrance etc.[5]

SIR JOHN CLATWORTHIE and MR. PYMME mooved that the bookes of entries for peticions in Irelande both to the Deputie and the Counsell table might bee sent for[6] and that the Monopolie for Tobacco ther might bee putt downe.

An order for this altered upon my ensuing motion.

MR. TREASUROUR mooved and I seconded him that not the originalls but copies or extracts of them bee sent. I added they weere either Records or of the nature of Records and not to bee committed to the winde and the flouds[7] (and soe the Howse ordered it.) and besides I shewed that if they should perish in the sea wee should loose that evidence wee had against him.[8]

f. 12a] A message was sent to the Lordes about examination of witnesses etc. in the Leiftenant of Irelands cause agreed yesterday. The Lordes answeared[9] it was a busines of great waight and they would take it into consideration and send an answeare by a mesengers of ther owne.

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[1] *Cf.* C.J. II, 31-32; App. B, p. 539.

[2] Probably Sir Edward Moundsford.

[3] "Mr. Secretary Windibanke sent him a letter to forbeare prosecuting of his writt for the search of all Recusants convicte . . . and that nowe hee was offered. . . . 30£ to redeliver that letter. And a letter was written to him that now there must bee noe more said of that matter." Peyton, f. 21.

[4] "Mr Whistler reported from the committee off Irish affaires." Palmer, f. 51.

[5] For the Remonstrance, see Rushworth, VIII, 11-14. It is summarized in C.J. II, 32, and Palmer, ff. 51-52. See also Bagwell's account of it (*Ireland under the Stuarts*, 1909, I, 302, 303, hereafter cited as Bagwell). See the story in *D.O.* (5) of how the copy of the Remonstrance got into the committee's hands.

[6] "Shall bee sent by Sir Paul Davies" (clerk of the Council in Ireland). Palmer, f. 52. "And the Secretaries bookes to bee alsoe." Peyton, f. 22.

[7] *Cf.* Palmer, f. 53; Peyton, f. 22; and C.J. II, 32. D'Ewes's reverence for records was deep and sincere.

[8] At about this point Palmer reported from the committee appointed Nov. 14 (C.J. II, 29) about Buller's indenture. See C.J. II, 32, and Palmer, f. 53. And this matter was followed by the reference of the petitions of Jennings and others to the Committee for Courts of Justice. C.J. II, 32; Palmer, f. 53.

Then was the busines of the late canons mooved to bee agitated in the Howse.

Sir Robert Harlow[10] mooved for some course to bee taken for discoverie of the papists: And that the Bishop of Lincolne being Deane of Westminster was mooved for remooving the Communion table into the church or chancell and a ticket to bee made[11] of everie mans name and place for which hee serves etc. The Deane was verie readie to yeild to it and saied hee would yeild that to anie in his dioces. With divers other matters touching preventing of the receiving of those that are popishlie affected or have wives papists, or bredd upp ther children or have popish householdes should make some protestation to cleare themselves from poperie. And that all that are suspected should within a month bring a certificate wheere everie one had received.[12]

And then followed an order.

A message sent from the Lordes by Mr. Justice Jones and Mr. Justice Crawley—That concerning the great busines of his Majesties commissioners treating with the commissioners of Scotland, that the Lordes desired a speedie conference either this morning or as soon as this howse could convenientlie.

The Judges being gone out it was upon the question resolved that the Howse should presentlie attend the Lordes in the painted Chamber neare the upper Howse. Then weere the Judges called in and the resolution of the Howse declared unto them. And after ther departure the Howse appointed some members of the Howse to reporte what the Lords should say; which weere the Lorde Digby, Sir Thomas Roe, a privie Counsellor, and others.[13]

The Lord Digby mooved that the Reporters might bee first permitted to goe out of the Howse according to the order of the Howse which was agreed and as soon broaken. For the Howse instantlie rann out in a croud and after they had awhile staied in the painted chamber the Lordes came out, and made such propositions as weere after reported by Mr. Pymm and Sir Thomas Roe, as in the Journall booke.[14]

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[9] "Mr. Pymme returned the lords answere." Palmer, f. 53.

[10] Harley reported from the Committee for the Communion. C.J. II, 32, and Palmer, f. 53.

[11] "Shall bee brought by all." Palmer, f. 53.

[12] "A committee to consider this." Palmer, f. 53. The committee was to prepare an order. C.J. II, 32. At about this point there was "An information by undersheriff of Hampshire who had charges against recusants and was forced to enter bond hee should never presequute against Recusants. . . . Reade, Brooke and Lord to attende concerning this on Thursdaie or sooner iff the committee thinke fitt." Palmer, f. 53.

[13] For the others see C.J. II, 32.

[14] Space is left in C.J. for Roe's report, but it is not inserted. The following are Palmer's notes of the report (ff. 54-55):

"The Lord Keeper began directed himself to the Lords, Knights, Citizens and Burgesses, After the reporte made a long and fruitles dispute arose in the howse how farr the howse should approve the commission and commissioners and ther treatie if they doe anything without the consent and advice of this Howse.[15]

In the afternoone.

Arguments of the Starre chamber etc. at the Committee of Greivances from Courts of Justice[16] and a committee appointed of which I was one.

The howse sate and the speaker went into the chaire betweene 3 and 4 of the clocke.

Sir Thomas Roe mooved that wee should speedlie give some resolution.

I mooved that wee might.

Mr. Treasurour of the household seconded this.

Mr. Selden mooved that wee [*blank*]

Then many argued, it should bee by consent of Commons alone.[17]

That hee was commanded to acquaint them that his Majestie had made choise of the commissioners att Rippon to bee commissioners to perfect the Treatie. Nothing should bee done without acquainting both houses. The Lords had entred this and did not doubt of the Commons approbation. The Lord of Bristol then spoake that hee had given an exact account of what was past; the Commons should bee acquainted.

"That they had written to the committee in the North, had receaved advertisement from them of there wants.

"The Scotts commission had wrote to staie outrages till the supplie [received] but had received information off the calamities of the Scotch armies which was in a paper *videlicet.*

"They have but water. The releife from the counties but 2d or 3d per diem: but 2l of rie bread per diem. But 12 meales of fleshe, fishe etc in 12 weekes.

"The contribution but 15 or 16000£.

"These things recommended to the care of the howse, represented the want of the Kings armie and the cries wee should heare. That the kingdome was charged by both Armies att 3 or 4000£ per diem."

For the complete version of the report, different in several respects, see Nalson, I, 524-529.

[15] "And that day the Lords sent two of the Judges to the House of Commons to let them know the King had sealed a commission to those that attended at Rippon; and had given them power thereby, to hear and end as many of the differences as they could; and such as they could not, were to be referred to the Lords of the Upper House to determine, and that the Lords would do nothing without their privacie. Upon which message there was a great and long debate in the House of Commons, whether they should rest content with that message from the Lords, or stand upon their right, and the power given to the Lords should extend onely to the House, or else should not be excluding, or binding." *D.O.* 5.

[16] Palmer (f. 55) gives a few notes of this committee: "Was preferde a petition for Mr. Fawnt against a decree in the starchamber. Referde to a committee to consider off a course for releife off Mr Fawnt. And to take into consideration the court off Starchamber and regulating itt. Referde to a committee to meete on Mondaie 2 off the clocke. I am named one."

[17] The House was evidently debating the question of the treaty with the Scots and how far they should approve the action of the commissioners. According to the Journals they reached the following agreement: "Resolved, . . . that this House does approve of the persons of those Lords, that were Commissioners in the late Treaty at Rippon, to be Commissioners . . .; with this Declaration, that no conclusion of theirs shall bind the Commons, without their consent in Parliament." C.J. II, 33.

f. 13a] Saturday November 21. 1640.

Sir John Jacob being a referree of Patents for Monopolies and a member of this howse was commanded upon Sir John Hothams motion to withdraw out of the howse till his cause was determined and heard by this Howse wheereupon having spoaken what hee could for himselfe hee withdrew.

It was mooved that Dr. Cousens should bee sent for by a Serjeant of Armes as a delinquent although hee bee a member of the Convocation howse. Dr. Cousens was indicted by presentment at Durham of high Treason by the grand iury at Durham: but there was noe further proceedings:[1]

Now Dr. Edon mooved that by a canon 1° Jacobi[2] hee stands for this excommunicate ipso facto, but till this bee denounced hee is not to bee debarred from the convocation howse till hee bee soe denounced in convocation howse etc.

Mr. Perd and Mr. Glynne mooved hee should not bee sent for as a delinquent for feare of breaking the priviledges of the convocation howse.[3]

Mr. Whistler saied his deniing the King to bee supreame head of the Church is fitt to bee sent for by a serjeant of armes.[4]

I mooved that hee might bee sent for etc. and overruled upon it. I vouched the ancient inheritance of the Kings of England, William the firsts power etc. then Charles the 5 abolished the Pope etc. Lewes made his *pragmatica sanctio* etc. Dr. Parrie was of this Howse in the Parliament de a° [*blank*] and upon treasonable words spoaken was first called to the barre and after sent to Tyburne.[5] The wordes hee spake weere not so badd as Dr. Cousens etc. soe to bee sent for by a Serjeant. And soe being put to the Question it was overruled, hee should bee sent for.

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[1] Peyton gives here a speech by Bagshaw: "There was *Excommunicatio Canonis* and *Excomminicatio Juris:* The first upon the 2nd canon of denying the Kings supremacy it was excommunication *ipso facto* made: and that hee thought Dr. Cousins excomminicate."

[2] Stat. I. Jac. cap. 44, "For the due execution of the statute against jesuits, seminarie preistes, recusants." *Stat. of the Realm,* IV, Pt. ii, 1020-1022.

[3] It is probable that several men spoke in this debate. Peyton (f. 23) does not give Perd and Glynne, but does give two others as follows:

"Mr. Whistler said: In his Indictment formerly, whereof the Record was there before the house, hee was accused of Felony: And though it bee true that the Convocation hath that same priviledge that the house of Commons, yett noe priviledge of Parliament will reach to Felony.

"Sir Thomas Withrington said, That though hee were nott convict actually by Law, yett hee was convict in his conscience, for that in 11 or 12 yeeres hee had nott endeavoured to Traverse the Indictment against him."

[4] "That the Kings of England have ever beene heads of the Churche within their dominions, as having alwaies had externall coactive power to compell the cleargie to doe their duty." Peyton, f. 23.

[5] D'Ewes discusses this case of Dr. Parry in his *Journals of all the Parliaments during Elizabeth,* under date of Feb. 18, 1585: "Upon a motion made by Mr. Diggs, that Dr. Parry, a late unworthy member of this House, and now prisoner in the Tower . . . hath . . . so misbehaved himself as deserveth his said imprisonment in the Tower." Upon this it was resolved "that he be disabled to be any longer a member of this House."

Sir Henry Anderson mooved many articles of most high and dangerous crimes against the Lord Leiftenant of Ireland: which hee delivered to the Clarke.[6]

Sir John Hotham mooved that the monie to bee sent into the North and provided by the cittie might instantlie bee sent away: in respect wee weere yesterday enformed of the necessitie of both armies etc.

Alderman Pennington saied ther was alreadie underwritten in the cittie 20,000£ and moore would bee raised if securitie might bee given.

Mr. Treasurour mooved that instant order might bee taken to give securitie to the cittie.

Sir Thomas Roe made an excellent motion that some course might bee taken and that the Aldermen [*blank*]

Then Sir Thomas Roe went upp to the Lordes with the message of our approbation of the commissioners etc. concluded on yesternight.[7]

Committee.

A little after our returne the Howse was resolved into a Committee.[8]

Mr. Capell 1000£;[9] Sir Nevill Poole 1000£; Mr. Perepoint for a 1000£; Sir Thomas Roe a 1000£; Sir Arthur Ingram a 1000£; Sir Roger Palmer 1000£; Sir Thomas Middleton 1000£; Sir Robert Crane a 1000£; Sir

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[6] "That by his leiuet[ena]ncy of Irland hee acroched greate power: Hee was brought into this greate place by Jesuits: perhaps O'connall.

"3. Hee got into his handes both armies off England and Irland.

"4. By his default the Kings Armie att Newborne routed.

"5. Unwarranted and illegall proceedings in Yorkshire.

"6. By his militarie commission hee hath executed some off the Kings subiects.

"7. Brought with him 3 proclamations as Trumpetors for Escuage shipmonie and the Scots to bee rebells all in a daie off one Birth. These 3 hee brought and caused to bee proclaimed.

"8. Hee procured a constable to bee brought into the Tower and a garrison of dangerous persons placed there.

"9. An attempt against some greate lorde.

"10. After the comming of the Peres did practise with them to separate them.

"11. A practise to make a peace with the Scotts and to turne both Armies to destruction of Lawes and Religion.

"Probable the Spanish Navie was to this end and did proceede from him." Palmer, ff. 56-57. *Cf.* App. B, p. 539.

These articles were referred to the subcommittee for Irish affairs. "Further the house expressed, That it was the use of Parliaments to adde such other articles from time to time as occasion should offer." Peyton, f. 23.

[7] For message see above, p. 49, n. 17; for a speech by Gerrard see App. B, p. 539.

[8] "Moved by Mr. Pymme that the citizens who were present should propounde securitie in the power off the howse which hee conceaved the citie would accept." Palmer, f. 57.

[9] "Mr. Capell first mooved That for his owne particuler hee would bee willing to give his bond in security for 1000£ and upon this there followed the motions freely of as many persons as made up 100 soe that the security was there made and concluded on." Peyton, f. 23.

Robert Ashburnham 1000£; Sir William Playter a 1000£; Sir William Morley 1000£; Sir Hugh Portman 1000£; Sir John Corbet 1000£; Mr. Sandes a 1000£; Sir Dudley North 1000£; Mr. Ofield 1000£; Sir Richard Onslow 1000£; Sir Gervase Clifton 1000£; Mr. Napper 1000£; Sir Thomas Barrington 1000£; Sir Christopher Wray 1000£; Sir John Wray f. 14a] 1000£; Mr. John Belhowse Sir Francis Semour 1000£; and to two thousand; Sir Edward Askew 1000£; The Lorde Wenman 1000£; Sir John Stowel 1000£; Sir Henry Wallop 1000£; Mr. Eveling 1000£; Sir Thomas Walsingham 1000£; Sir Miles Fleetwood 1000£; Sir Richard Wyn 2000£; My selfe 1000£; Sir Thomas Heale a 1000£; Sir Ralfe Hopton 1000£; Mr. Henry Percie for as much as his securitie will bee taken for; Sir William Udall 1000£; Sir Edmund Mumford 1000£; Mr. Nowell 1000£; Mr. Moore of Lancashire 1500£; Two burgesses of Coventrie 1000£; Sir John Eveling 1000£; Mr. Dutton 2000£; Mr. Treasurour 2000£; Sir Richard Lusan 1000£; Mr. Rogers 1000£; Mr. Speaker 1000£; Serjeant Wild 1000£; Citizens of Exceter Mr. Walker and Mr. Snow 1000£; Sir Thomas Sutton and his partner knights[10] for [*blank*] 1000£; Sir Thomas Pelham 1000£; Serjeant Ever 1000£; Sir Thomas Fanshaw 1000£; Citizens of Bristow [*blank*] 1000£; The Burgesses of Plimouth 1000£; My Lorde Fairfax 1000£; Sir Gilbert Gerrard 1000£; Mr. Hamden 1000£; Sir George Dalston and his partner of Cumberland 1000£; Mr. Whiting 1000£; Sir Alexander Denton 1000£; Sir John Jennings 1000£; Sir John Curson 1000£; Sir Robert Harlow 1000£; Sir George Stonehurst 1000£; Mr. Phetiplace 1000£; Sir Arthur Haselrigg 1000£; Sir John Croke 1000£; Sir Ambrose Browne 1000£; Mr. Goodwin 1000£; Mr. Catlin 1000£; Mr. Wheeler 1000£; Sir William Bowyer 1000£; Sir John Dredon 1000£; Mr. Potts 1000£; Sir John Holland 1000£; Sir Thomas Boyer 1000£; Sir Francis Knowles and Sir Francis Knowles his sonne 1000£; Sir Peter Haimond 1000£; Mr. Ashburnham 1000£; Sir Charles Grosse 1000£; Sir Henry Worselie 1000£; Sir John Culpepper 1000£; Mr. Erskin 1000£; Mr. Ashburnham 1000£; Sir Edward Greenfeild 1000£; Mr. Seimour 1000£[11]

I mooved that I was gladd to see the worke thus farr advanced.

Divers of the members of the Howse of Commons considering the great necessitie of speedie supplie of monie to bee raised by reason of the extreame danger of the English and Scottish armies in the North now in great want have voluntarilie ingaged themselves for the severall sommes of 1000£[12]

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[10] A mistake for Mr. Sutton and Sir Thomas Hutchinson. *Cf.* p. 435, n. 20.

[11] D'Ewes adds in margin: "Mr. Knachbould, Sir Edw. Hales." Palmer's list omits some of the names given in D'Ewes but adds the following: Bodnere [William Boteler], Mr. Lowrie, Sir Edward Hungerford, Sir Robert Parkhurst, Sir Francis Popham, Mr. Wise, Sir Richard Lee, Mr. Mostion, Mr. George Fane. *Cf.* App. B, pp. 539-540.

[12] Thomas Knyvett in writing to John Buxton (Nov. 24) gives a story that may or may not be true. He says: "There are incredible sums of money offered his Majesty to break up the parliament, and I must tell you that on Thursday and Friday last

or more apeice amounting in the whole to the summe of 100000£ till the act intended to bee passed by this Howse for the granting and raising of these saied summes of the saied Howse of Commons bee fulie past.[13] And doeth protest that this act of some of the members of the same Howse shall not bee drawnen into President against this Howse nor bee a binding or leading case to the same Howse of Commons for the time to come.

Approoved by all the Howse.

Then followed divers motions touching the manner of securitie to bee given for the interest and a Committee to bee appointed to consider of f. 14b] the state of armie and other particulars and then an order entered.

The Committee ended and the Speaker into the Chaire.

Mr. Purferey mooved that the popish commanders and souldiers might bee dismissed and the ref.

Then Mr. Sollicitor made a report of all wee had agitated at the committee: and then Mr. Speaker putt these questions.

Then was the Committee named and some being named that weere not in the Howse Mr. Nowell[14] mooved that such as weere nominated as weere now absent might bee putt out of the Committee it being unfitt they should bee in the Howse.

The Committees weere named that should consider of the state of the Kings armie in the North etc. and to issue the monies to bee paied.

And an order what the saied committee should doe.

Post Meridiem.

The case of Mr. Gurdon was heard in the Starrchamber before the Committees for Priviledges etc.

In the beginning of which agitacion Peter Haywood Esquire one of the Justices of the cittie of Westminster, betweene two and three of the clocke [was stabbed] by one John James supposed to be a popish priest.[15]

there were great fears of it, but (God be praised) the house of Commons took a course by selecting of a hundred of them to be engaged to the Londoners for present supply of a hundred thousand pounds for the armies, which they willingly offered themselves to. This took well with the King and those fears are for the present blown off." *MSS. in Various Collections* (*Hist. MSS. Comn.*), II, 259. Whether the rumor Knyvett mentions were true or not, the circulation of it could not but aid the making of contributions in the Commons.

[13] A difficult paragraph to decipher. Reading doubtful.

[14] Baptist Noel.

[15] "At the Committee of Religion in the afternoone It is agreed, That since the exercable malice was in part discovered to us, of the Papists; for that one of them this afternoone had stabbed Mr. Hayward a Justice of Peace as hee was shewing to a friend of his a schedule of such suspected and notorious Papists as were about Westminster That it should bee declared among them here that the Communion should bee forborne to morrow: and that Preachers to have notice thereof: and on Munday that report should bee made to the house, of the occasion that caused the breache of their order for the receiving of the Communion next day ect.

"Note, That this thing hapning (of the assault of Mr. Hayward) sitting the Committe of the whole house for religion, They sent to the speaker to have his presence and intimation was given to other select committees to repaire to their house and noe

Monday. November 23. 1640.

f. 15a] A peticion by the Companie of Grocers was read in the Howse against a number of Monopolies against Grocers wheerein verie manye Monopolies besides soape, starch, and other particulars.[1]

A motion touching monopolies that a patent granted to carrie over calve skinns was beneficiall. SIR THOMAS BOWYER saied thus much.[2]

I spake etc.[3]

Somewhat added to the former order of monopolies etc.[4]

MR. HIDE mooved against the Court of Honour, etc. and against the Heralds for taking monie after mens death etc.[5]

SIR HENRIE MILDMAY seconded Mr. Hide and mooved further that not onlie the Court of Honour but all other courts both Ecclesiasticall and civill; that Judges imposed what new fees they would that ministers had denied buriall to men.

MR. SELDEN shewed that in the Court of Honour they exercised the absolute Imperiall law: indeed some parte of it is received but in what Imperiall lawes it meddles that are not warranted by our law are to bee avoided: Tis true that in the Admirall Court ther is likewise an Imperiall law.[6] Therfore a select committee.

DR. EDON mooved for a select committee: but excused the Earle Marshall etc.

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command, for noe Committee hath power over any other butt its sub-committees: and when all were together, The speaker only sitting by, they declared among themselves, that the Communion should bee forborne to morrow etc." Peyton, ff. 23-24.

D.O. (6) adds some details. See also letters written by Thomas Knyvett to John Buxton (*MSS. in Various Collections,* II, 259) and by Captain John Barry to Sir Philip Percivale (*Egmont MSS.,* I, 122).

It is not likely that the Committee for Religion accomplished anything on this afternoon. That Rushworth (IV, 55) dates Dering's long speech on religion the 21st can very well mean only that Dering intended to deliver it on that day. Dering himself dates it the 23d. Dering, Sir Edward, *Speeches . . . in the Commons House of Parliament,* 1641. Henry Townshend (*Diary,* in *Worc. Hist. Soc.,* 1915, p. 16) assigns the speech to the 23d and gives a brief summary of it.

[1] Referred to the Committee for Grievances. C.J. II, 34.

[2] "The business concerning the Transporting of raw hides and Calve skins is referred to the Committee for Trade." C.J. II, 34.

[3] "Distinguished monopolies. 1. Imperative, to dispence with penall Lawes. 2. Joculatory, as to gett monopolies of Cards and Dice, ect. 3. Restrictive, to restraine things nott merely necessarie. 4. Destructive as those things that are soe necessarie that wee cannott spare, ect." Peyton, f. 24. He notes in the margin of item 2: "The house laught at it heartily." D'Ewes was to be laughed at often before he was through with the Commons.

[4] See C.J. II, 34.

[5] "Mr Hide moved and putt in a petition against the Marshall Court." Palmer, f. 60.

[6] "That itt [*i.e.,* the Marshall's Court] is against the oath of supremacie whereby wee are sworne to mainteine lawfull Jurisdiction; this doth mainteine the Imperiall lawe." Palmer, f. 60. "That the Marshalls Court doth exercise Imperiall Lawe, which hath noe power in England noe further then custom hath allowed it; and England hath noe Lawe butt what is knowne to us by Act of Parliament, and by Custome." Peyton, f. 24. In the margin Peyton notes: "Mr Selden would bee desired to deliver his mind now, in a^o^. 1644." For the day's proceedings to this point, see App. B, p. 540.

Then a Committee was named of which I was one[7] etc.

Then an order etc.

Mr. Speaker[8] etc. I then mooved etc. *Evangelium Regis etc.*

Mr. Glynne mooved that thee busines touching the hurte of Mr. Heyward had been examined by him etc. Refused the oath of supremacie, would take the oath of allegiance.[9]

Sir Walter Earle shewed that the partie had been in Flanders at Brussels as hee confessed to the Lordes, etc.

I mooved an act to bee made etc.

Sir Thomas Withrington that his trunke might bee searcht etc. and a spetiall committee appointed[10] which weere[11]

Sir John Hotham mooved to know if papers had not been searched by order of State.

Mr. Treasurour acknowledged hee had searched the papers.

Ordered they should goe presentlie.

Sir Thomas Roe mooved [*blank*].

Sept. 30. 1640 Norton Cheinei
Clement
John } Finch, Sir Michael Livsey baronet
Charles
For causing a recusant to take the oath of allegiance.[12]

They badd Mr. Cheiney tell Sir Michael hee had done moore than hee could iustifie.

Mr. Perd thought they might bee sent for as delinquents because it is affirmed by an oath.

Alderman Pennington mooved for speedie care to bee taken for the safetie of the members of this howse: and that the cittie would bee readie to hazard ther lives for the safetie of this howse.

Mr. Capell mooved wee might looke to the safetie of ourselves according as wee had power.

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[7] "For taking into examination the fees of the Heralds and the exorbitances of the Marshalls Court." Peyton, f. 24. "To examine the power of the Court Marshall." Palmer, f. 60. See C.J. II, 34.

[8] "Mr. Speaker acquainted them with the Kings pleasure they should take a course for exemplarie punishment against him who assaulted Justice Haywood being then in the Parliament service." Palmer, f. 60. *Cf.* Peyton, f. 24; C.J. II, 34.

[9] "Mr. Glinn Had examined him hee confessed Hee is a popish resusant his name James hath a wife, but hath not lived with her longe wished shee was deade. Hee conceaved him a distracted fellowe and a fitt Instrument of mischeife. Would take noe other oathe but allegiance." Palmer, f. 60.

[10] The committee was given "power to search his trunk, boxes, or any other thing." C.J. II, 34.

[11] Members given in C.J.

[12] The *Commons Journals* (II, 34) say a note was delivered this day by a member from one Sir Michael Livesay and it was ordered "that Clement Finch, John Finch, and Charles Finch be . . . sent for to this House as Delinquents." *Cf.* App. B, p. 541.

MR. GOODWYN desired that wee might accept of a guard from the cittie.[13] f. 16a] Noe order cann bee made as long as any member of the Howse is speaking.

SIR RALF HOPTON mooved the Finches might bee sent for as delinquents.

SERJEANT WYLDE mooved that because the affidavit was extraiudicall and taken before a Master of the Chancerie.

Ordered that they bee sent for as delinquents.

SIR GILBERT GERRARD mooved that all the Preists and Jesuites that could bee taken about the towne might bee committed: and some principall papists.

MR. PYMME mooved that the lawes might bee putt in execution, etc.

SIR WALTER EARLE mooved that wee might bee guarded by a companie of the cittie, each day one.

SIR HENRY MILDMAY mooved that when any one spake none might crie I or noe to interrupt him: and that speedie order might bee taken for our securitie.

Two Peticions from the cittie of London for ridding our selves from papists: and the danger by them.[14]

SIR JOHN HOTHAM mooved that wee might accept the cittie guard. MR. GRIMSTON mooved the same.

MR. RIGDEN[15] mooved that some course might bee taken for the defence of the Kings person, considering the princes minoritie.

SIR HENRY ANDERSON mooved the cittie might bee thanked for ther motion.

MR. KING mooved Licences weere granted to dispence with the proclamation, etc.

MR. TREASUROUR denied it, that anie licence was granted or should bee.

MR. ALDERMAN PENNINGTON saied that they might have 300 men at a time for a guard.

SIR THOMAS JERMIN comptroller and SIR JOHN EVELING saied that a guard would not secure particulars: but secure us onlie whilest wee sitt.

SIR ROBERT HARLOW[16] desired the citties guard might bee accepted, and the Lordes have notice of what had passed: and of the Kings message to us.

MR. HAMDEN mooved to accept of the guard.

The LORDE DIGBIE to accept the cittie guard.

SIR THOMAS ROE mooved a guard would bee sufficient heere if but a civil guard.

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[13] "The Kings message gave occasion to the howse to consult off their own safeties. Itt was debated whither the howse should admitt a gard or noe, and what garde. There was an offer from the citie off a garde. And debated whither the howse should accept that garde, viz. a bande of 300 men." Palmer, f. 60.

[14] *Cf.* C.J. II, 34, Rushworth, IV, 57, and App. B, p. 541.

[15] Probably Rigby of Wigan.

[16] D'Ewes habitually spells the name Harlow instead of Harley.

Mr. Hollis mooved that noe securitie could secure particular men for that everie one must prepare. But the feare now is a generall assassination: and therfore a cittie guard.

Sir Thomas Jermin comptroller mooved the King might be accquainted with it:

I ended all controversies that the Howse guarded by the cittie in H. 6 time[17] and that yet wee might send the King notice by those Honorable Senators.

Mr. Pymm mooved that wee might send to the Lordes.

Sir Peter Haymond mooved to acquaint the Lordes with our resolution.

I mooved to have the message penned.

Some called on my Lord Digbie[18] and some on Sir Thomas Roe, and the message as I thought was in penning and soe I went before with some others to the upper Howse but whilest I was absent the resolution of the Howse was crost upon noe great ground, etc. as if they had noe feare nor needed noe guard.[19]

f. 17a] After our returne Dr. Cousens was attending at the doore brought by the Serjeant (which was overruled upon my mocion) and soe hee was brought in and kneeled at the barre, and the serjeant stood by him with his mace on his shoulder without the barre. Then the Speaker after hee had awhile kneeled bad him stande upp and charged him first out of the Indictment found by the grand iurie at Durham with these wordes that hee had saied that the King was not supreame head of the Church nor could bee. To that hee answeared that hee had indeed saied soe and hoped that hee well might; for hee held the King to bee governor not head.[20] Soe was it enacted by the statute de a°. 1°. Eliz.[21] and soe weere the wordes.[22]

November 24. Tuesday.

An act for the reversing of a decree in Chancerie and a decree in the Starre-Chamber read the first time.[1]

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[17] I cannot find this instance.

[18] "Ordered the Lord Digbie to goe off a message to the Lords that this howse thinks itt expedient to accept the offer off the citie For a Garde for the howses of Parliament." Palmer, f. 60. *Cf.* C.J. II, 34.

[19] "This putt off." Palmer, f. 61. "The consideration of the business concerning a guard is referred to a further debate till tomorrow morning." C.J. II, 34.

[20] Neither the *Journals,* Rushworth, Peyton, nor Palmer mentions the appearance of Cosin, but the *D.O.* (6) says: "This day Dr. Cousins was brought into the House as a delinquent, to answer to an Initement heretofore preferred against him; for saying that the King was not the head of the Church, and seducing the King's subjects to become Papists." *Cf.* App. B, p. 541.

[21] Cap. I, *Stat. of the Realm,* IV, Pt. I, 350-351.

[22] There was a meeting of the Subcommittee of Religion on the afternoon of Nov. 23. See Sir Edward Dering's notes of that subcommittee. *Proceedings in Kent, 1640,* 80.

[1] "An Act for reversal of a decree made in Chancery and Star Chamber between Sir Arnold Herbert, Kt., Plaintiff, and Lownes et al', Defendants." C.J. II, 35.

Sir Gilbert Gerrard mooved that two delinquents now in towne desired to bee heard. Mr. Speaker mooved the staires might bee cleared and that Dr. Cousens complained to him that hee was in danger to bee killed as hee went downe the staires.

Sir John Holland mooved to cleare himselfe that hee was free from Poperie though his wife weere a papist, and that hee was readie, etc.

Mr. Hamden mooved that the Howse might declare whether they weere satisfied with Sir John Hollands declaration or not. And the Speaker putting it to the question in the Howse: and all cleared him.

f. 18a] John Norton a minister brought in as a witnes to the barre against Dr. Cousons that hee had a sonne of Katherine hall in Cambridge whome one Nichols and Lee of Peter howse had endeavoured to seduce to poperie by Dr. Cousons motion. The Serjeant standing within the barre his mace on his right shoulder. Hee saw the arguments that they used to seduce him hee saw the disputations, etc. all directlie popish, etc. fellows of Peter howse. Peter howse chappell popish.[2] One Norwidge another fellow of Peter howse preached a popish sermon which Dr. Brownrigg[3] questioned but Dr. Cousens iustified.

Mr. Ellis saied the orders of his chappell at Peter howse weere popish and delined a note of them in latine.

moduletur sacerdos Celebraturus pro ratione dierum officium et lectiones; humilitate et reverentia qua[4] *ingrediuntur egrediantur.*

Dr. Eden spake to the witnes of the minister, that it did not fullie appeare that Nichols would have seduced his sonne: yet hee accounted Nichols a dangerous man.[5] And for Norwiges sermon it was censured by the universitie and hee committed for it: and how hee gott loose againe hee knoweth not.

Sir John Hotham made a reporte of the state of the armie in the North, of ther great want and danger of spoiling the cuntrie. That it was the opinion of the committee to send to the Lorde Generall to remove the popish officers horse and foote as well in the armie as in garrison to bee remooved. The Earl of Craford a Scottish Earle his companie called a reformado which is unnecessarie and receives 1400£ per month to bee remooved.[6]

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[2] "A minister called to examination, said: That one Nicols and Lee of Peterhouse endeavoured to seduce his son to Poperie; and promised him that hee should have a fellowship there. Hee said, The questions disputed on there have beene for this yere past flat popery; and the chappell of Peterhouse is a very Romish chappell." Peyton, f. 25.

[3] Ralph Brownrigg, at this time Master of St. Catharine's Hall at Cambridge.

[4] *Decet* crossed out in the MS.

[5] Worthington records in his diary for Jan. 16, 1639/40: "There was one Mr. Nicols put in prison here, for speaking against the King's supremacy, and seducing to Popery. He was Fellow of Peterhouse." *Diary and Correspondence of Dr. John Worthington* (*Chetham Soc.*, 1847), I, 7.

[6] Peyton (f. 25) gives a more complete account:

Mr. Vassall saied the cittie desired our securitie offered heere might continue till the monie weere paied in by the act.

Mr. Treasurour mooved that this putting out of the popish commanders and under officers would upon the sudden weaken the armie.

Mr. Hollis shewed wee did not desire to diminish the armie but to strengthen it with moore faithfull commanders and officers. And the Earle of Craffords reformado is unnecessarie, etc.

It was then mooved wee should send to my Lorde Generall to remove the popish commanders and officers.

I spake to let the King have notice of it, etc.

f. 17b] I mooved that this great busines had been referred to a wise and iudicious committee and I well allowed the resolution therof but added that by all I had either read upon recorde or in stories when kings appointed generalls and gave them power yet in great and waightie occasions as this was which might concerne the remooving of perhapps a thirde parte of the commanders of the armie ther was a tacite condition annexed that nothing should bee done without the soveraignes consent. Nor did I beleeve but that if this question had been mooved at the committee which an honorable member but now mooved, they would have taken it into serious consideration. I therfore wished that the message might bee sent as was proposed to the Lorde Generall, and that wee to shew our humble respects to his Majestie might desire some of the Honorable members of this Howse to acquaint his Majestie with our resolution.

f. 18a] Question, whether to send to the Lorde Generall to remande all popish commanders and officers of horse or foote as are papists or iustlie suspected bee remooved and out of garrisons alsoe bee remooved, and Protestants placed in ther roome.

Soe resolved upon the question.

"Sir John Hotham reported from the Select Comittee the state of the Army; and their considerations concerning it.

"1. That some honorable persons about this chaire might bee intreated to moove my Lord Northumberland to remoove all Papist Commanders from their places and to putt others that are Protestants in their roomes, bee their places in the Army or Garrisons.

"2. Was considered the unnecessary charge of the Army: viz. in entertainment of a Troope of Horse under the command of my Lord Craford, all of good Commanders and Papists: This troope stands the king in 1400£ per mensem as much as will maintaine five troopes.

"3. 2408£ per mensem the entertainment of Reformadoes.

"4. 3638£ the Traine of the Artillery. 1500£ per mensem may bee spared.

"5. That a muster may bee made upon payment of the money that shall bee sent downe.

"6. The Army hath had noe pay since the 10th of November.

"7. The citty to advance 25000£ presently or it will doe noe good at all.

"8. If it might bee gott in gold in [it?] might bee the sooner carried.

"9. 50,000£ was sent out of England to maintaine the Irish Army of which soe much bragge was made, that it lived upon the Irish pay."

The reporte of the Committee for the Kings armie is ordered to bee deferred till too morrow morning at nine of the clocke.

f. 19a] MR. PYMME reported the articles with which the Earle of Strafford Leiftenant of Ireland was charged and stood guiltie of high treason.[7]

Hee spake low and I heard him not.

MR. GOODWIN having mooved that those articles might bee read openlie it was agreed.

And then weere the articles read by Mr. Henry Elsing Clarke of the Howse which weere verbatim as followeth.[8]

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[7] "Tewsday and Wednesday [*i.e.,* the 24th and 25th] the House of Commons locked up their doors, and no notes were suffered to be taken; they spending that time in receiving complaints against the Deputy of Ireland." *D.O.* 6. *Cf.* C.J. II, 35. At least five note-takers were nevertheless busy.

[8] D'Ewes intended to write the articles in later.

Both Palmer's and Peyton's accounts of Pym's report deserve reproduction here. I have inserted within brackets a few words where necessary to make sense. The longer insertions are from the *S. and P.* (117-119) version of the report. Palmer's version (ff. 62-66) is as follows:

"Mr Speaker I [am] now to speake of a cause greate in expectation more greate then can bee in our apprehensions against a greate person whom I never knewe but by favor. The cause needes noe art or reason to persuade that subvertion of lawes [is] an offence. That slaverie [is a] shame, etc. This [case] exeeds all others. 1. in extent and comprehension, not one but divers reducing government into a state of treasons, murder, rapines, extortions.

"2. Exceedes in malignitie versus pietie, Justice, nature, humanitie, publique good.

"3. The mischeivous effects bereaves the crowne of glorie, people of libertie and safetie; brings in destruction upon the present likelie to perpetuatie in Future manie spiritts cri wo.

"Articles off the commons against Thomas Earl off Strafford in maintenance of there accusation wherby hee standes charged with highe treason. Reade.

"1. that hee endeavored to subvert the lawes and government of England and Irland and to introduce tirannicall and arbitrarie government and giving advise to the King by armes to [compell his loyal Subjects to, *S. and P.*] submitt therunto. Which hee hath declared by traiterous words, counsell, and actions, and giveing advise by [*i.e.,* to use] force [of armes] etc. This will bee proved manifestly and manifoldlie. These not in the articles. 1. By Sir George Radcliffes words they knew how to take [care] off the armies. 2. One sayd England was sicke of peace stoode in neede to bee newe conquered. These spoke by one of his blood. 3. words by himself that the Lord Lieutenant sayd to the Earl off Thomond desiring the Benefitt off the Lawe. Answer you shall have noe other lawe then comes out of my breast. This by a lord off the counsaile here. 4. That hee advised the King to make use of Irish armie to subdue England and advised the King upon breache of parliament to make use off the nobilitie to engage their lives and fortunes. A greater then these but now comes in. These speeches, counsailes. Itt was sayd hee had levied monie by musketters. Itt will bee proved hee sayd itt was little better then treason to refuse monie. Thereupon a warrant to levie monie upon payne of Deathe.

"2. Article. Hee traiterouslie did assume to himself regall power government over the Kings people in England and Irland. Tirannicallie over there lives and estates and exercised itt over the peres and others. 1. That hee caused judgment of deathe to bee given against a Peere in tyme of peace when courts off Justice open. 2. Bereaved divers off there landes, offices, good, upon petitions to himself alone and counsell table without process of lawe. An instance off wholl counties taken awaie. The Remonstrance of Irland. 3. Displaced judges and officers and placed in there roome divers dependents, as in lord chancellors case and lord Chief Baron his dependent putt in. The lord Mountnorris in whose place is Secretarie Manw[a]ringe. 4. Laide taxes and

Sir William Marsham mooved that wee must have the articles read singlie with the title and to bee voted.

Mr. Capell mooved that one question might bee putt for all: which was answeared it could not bee soe.

Sir Ralfe Hopton mooved that *other misdeameanors* might bee added to the worde high Treason but that was disallowed as unnecessarie.

Then the title was putt to the question whether wee allowed it or noe. The Speaker read it and then putt it to the Question and all saied I, not a Noe.

Then the Clarke read the first article and when all had I.

Sir Ralph Hopton mooved that wee needed to see some particular proofe.

Sir John Culpepper saied that wee voted but generalls and wee might iustlie trust the Committee with particulars.

And after some other shorte speeches.

The first article was read by the Clarke.

And then the Speaker putt the question thus, As many as are of opinion that this article shall bee the first article, to maintaine the charge preferred

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impositions upon merchansies, himself being farmer [of customs] etc. that of Tobacco and other monopolies to his owne use acted by his Instructions somme punished that would not submitt, others that would not act being officers. This in a [il]legall and arbitrarie waie.

"3. Article. To enriche and further his traiterous designes hee got deteined into his handes his Majesties treasure, [put it] into his own coffers without account, when his Majestie necessitated and his Majesties armie unprovided. The revenue off allum 40,000£ [taken] out off the exchequer in Irland to buy tobacco, hee having the monopolie. This by a letter. The Irishe remonstrance.

"4. Article. Abusing his authoritie for encreasing papists to make them of his partie to promote his tirannicall designes and settle mutual dependence. In Irland poperie without restraint there are monasteries erected and erecting entercourse with Roome, which [is] treason. The popish armie there better payd then protestants; his guard in the North papists. A newe information came in this morning.

"5 [Article]. Maliciouslie endeavored to stirr up enmitie and hostilitie betweene the subjects of England and those off Scotland. This off greate importance.

"6. [Article]. Traiterouslie broken the trust off leiuetenant [generall] off the armie by wilfullie betraieing [divers of his Majesties subjects to death, *S. and P.*], leaving the armie unprovided; and the warr being begun to engage the 2 nations the more deeplie in bloud, not in favour to the Scotts. Plaine hee did knowe the Scottish armie neare, wrote to lord Conwaie to fight come on itt what would. This sent without the Kings privitie yett the King neare him. So willfullie betraied the Kings subiects to danger. For Newcastle hee had Information in tyme to prevent itt yett did nott; and was advised to make fortifications but neglected itt.

"7 Article. To preserve himself from question, for these and other waivering course [he] labored to incense his Majestie against parliaments and to subvert those proceedings. In Irland, because Towns would not submitt to putt in such burgesses as hee pleased broached quo warranto being now questioned in parliament are restored. Sir George Radcliffe threatned to putt troops off horse upon them [that] did there dutie [in a parliament.] Althoughe the declaration not his which so much reproche to the last parliament thoughe not whollie his yett will [*blank*]

"By which hee hath laboured to sett division, etc. to alienate the hearts of people and destroie the kingdom. For which they impeache him of treason, etc.

"And this conclusion added the commons, saving to themselves libertie to add by the Howse of Commons against the Earle of Strafford, let them say I.

Mr. Crew thought the 2d Article should bee put as an addition to the first and not as a 2d article but as an addicion.

After others Sir John Culpepper stood upp and saied that hee accounted them different with whome the Howse agreed.

The 2d Article. Then was it putt to the Question and voted as the first.

Then did the Clarke read the particular instances to proove this Article, viz.

Then weere the 3d, 4, 5, as before but in this shorter forme of question.

As many are of opinion that this should bee the 3d Article against the Earle of Strafford let them say I.

To the 6, one saied no, and some would have had him asked his reason: but the speaker saied everie man had libertie to say I or noe.

To the 7, as to the rest the same answeare, I. But noe instances weere read.

any other accusation and impeachment and further proofe. Pray hee may answere and such proceedings examination triall and judgment to bee had as agreeable to lawe and justice.

"Upon these interrogatories are preparing, some prepared and readie when the lords shall require them."

Peyton's account (ff. 25-26):

"Mr Pymme Reports from the Select Committee the Articles against my lord Lueitenant of Ireland: which are in number 7.

"1. That the Earl of Strafford hath endeavoured to subvert the fundamentall Lawes of England and Ireland, and to introduce an arbitrary and tyrannicall government: some instances of this were offred.

"Viz. Sir George Ratcliffe's words, ect. And that another (hee concealed him) said England was sicke of peace and had need to bee new conquered agen.

"Viz. Lord Lieutenants owne words to the Earle of Thamond; you shall have noe other lawe butt what comes out of my mouthe.

"Viz. 5 or 6 noble persons (nott named) to proove the designe of the Irish army and his persuading the king to draw the nobilitie to support his purposes.

"Viz. Lord Lieutenants owne words; Ile force 'em to doe it, and they are noe better then Traytors that will nott find souldiers at their owne charge.

"Viz. warrants on paine of life were directed for this purpose.

"2. Hee hath trayterously assumed to himselfe Regall power over the Lands, Liberties, goodes, and persons of the kings subiects of England and Ireland and executed the same tyrannically to the subversion of many of his Majesties liege People.

"Viz. the business of Lord Mountnorris, Lord Loftus, ect., and laying impositions of Customs of which himselfe was farmer, ect. and restrayned commodities to his owne profitt.

"3. Hee hath endeavoured to enrich himselfe by exhausting the kings Treasure and taken great summes out of the Exchequer.

"Viz. the Composition of Papists, and the Allum nott accounted for to the king.

"4. Hee hath trayterously abused his authority to the encreasing of Papists: that hee might have a mutuall dependence from them to maintaine his tyrannicall designes.

"Viz. Monasteries new built. There is exercised a Jurisdiction derived from Rome, openly: His guard in the north consisted of Papistes.

"5. Hee hath endeavoured to stirre up hostility betwene the king and his subjects of England and Scotland.

"6. Hee hath broken the trust of Lord Lieutenant Generall of the Army and betrayed Newcastle to the engaging of the two nations in an irreconcileable warre.

"Viz: knowing the kings forces were nott able to oppose the Scotts at Newborne, Then was the conclusion read and after some dispute to little purpose, some amendments were added to it.

f. 20a] MR. SELDEN mooved that the title of Lord Deputie and Lord Leiftenant might bee putt in and soe the paper was sent to Mr. Selden to putt in those wordes.

After the wordes crowne and Dignite,[9] wordes putt in by Mr. Selden:[10] first it was voted they should bee putt in. 2dly voted alsoe upon the question those wordes should bee parte of the 7 article. Lastlie the conclusion was voted.[11]

MR. PERD mooved for a day against Shipp-monie which was coulered by a iudgment.

SIR EDMUND MUMFORD mooved for a day to be sett to argue against the Common P[rayer].

SIR JOHN EVELING mooved the Kings Counsell might bee heere.

MR. GLYNNE saied that needed not because the Kings Counsell had been heard before.

SIR JOHN STRANGWAIES mooved to argue against shipp-monie, and that proclamations might not bee of infinite power to alter or make lawes: nor the Starre-chamber nor high commission Court bee without limitts, especiallie the oath *ex officio*.[12]

MR. WHISTLER saied that all that had been saied by Sir John Strangwaies was of waight; but mooved the Canons might first bee put to a day.

MR. HIDE saied the shipp-monie was an infinite consequence.

And soe divers spake to this purpose, etc.

I mooved that the fundamentall lawes of this kingdome cannot bee

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yett did write to my Lord Conway and prayes him to fight, come what will on't; this the king knew nott of, although hee was neare enough to bee acquainted with it.

"7. To preserve himselfe, hee hath laboured to infuse into the king an ill opinion of Parliaments, ect.

"For this the Commons doe impeach him of high Treason against our souveraigne the king his Crowne and Dignity: and the said Commons by Protestation saving to themselves all other accusations and proofes."

It will be observed that *S. and P.* gives nine articles, whereas Palmer, Peyton and Northcote (*Note-Book of Sir John Northcote,* 1877, p. 1) have only seven. Article eight was added later upon Selden's motion (see what follows) and Article nine makes what Palmer and Peyton call the conclusion. Hereafter Northcote's *Note-Book* will be cited as Northcote.

Another version of the articles is to be found in the *Diary of Henry Townshend* (*Worc. Hist. Soc.,* 1915), 17-18.

[9] That is, after Article 7.

[10] "Upon Mr. Seldens mocion added to the conclusion; And hee the sayd Earle off Strafford was lord deputie or leiuetenant of Irland and leiuetenant of the armie and privie counsellor and lord deputie of the north in the tyme the offences were committed and lord leiuetenant of the armie in the North in the tyme the offences in 5 and 6th article were committed." Palmer, f. 67.

[11] See App. B, p. 542.

[12] "That the Judges are nott competent Judges in the matter of ship-money; because it is a concernment of the whole kingdome." Peyton, f. 27. "Against the petition of right. Old patents to Judges were *dum se bene gesserint.* Proclamations ques-

altered but by Parliament. I saied the Shipp-monie was the greatest burthen that ever this kingdome groaned under, etc.

For the debate of the Canons Thursday next. For the debate of the shipp-monie Friday next.

Fault with the worde regall power in Art. 2.

Mr. Perde saied legall and regall power and that regall power in a subject was tyrannicall.

Mr. Comptroller mooved to question Mr. Perd. Hee expounded himselfe to meane if in a subject.

I mooved that the worde regall might well stand in; that Mr. Perde might expound himselfe and bee cleared by the Howse. That the charge against the Spencers, Mortimers and de la Pole ther charge was to have assumed regall power:[13] for if grant expresselie from himselfe particular acts of regalitie this may bee iustlie exercised in some particulars, but if upon generall[14]

Mr Perd was cleared by the vote of the Howse, upon question put by the Speaker.

Then it was ordered upon like question that all the charges against the Earle of Strafforde should bee engrossed: against too morrow morning.

A question was made about the Clarkes assistant[15] being not sworne and cleared the Clarke was to answeare for him. Then it was ordered and the order[16] read.

f. 21a] November 25. Wednesday, 1640.

Sir William Bruerton mooved against the exorbitant power of the high Commission. A°. 36°. E. 3. n°. 9°. That noe man ought to bee committed but upon his crime showen. A°. 18°. E. 3. John de Bysse being committed to the Tower by the broad seale was upon a habeas corpus delivered.

They minister an oath *ex officio* which is *carnifina conscientiae*, etc. They deprive godlie and innocent ministers, etc.

Then a peticion was read of [*blank*] wife of [*blank*] Foxley[1] [*blank*]

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tioned." Northcote, 4-5. "The Starre Chamber ought to take noe cognizance, where a Lawe gives a particular punishment ect. The Law of dissention dangerous; and the oath *ex officio* pernicious, and if they'll give us leave to examine them upon this oath, they shall foresweare themselves or wee'll send 'em to hell without bayle or mainprise." Peyton, f. 27. *Cf.* App. B, p. 542.

[13] An allusion to Hugh le Dispenser, the Younger, to Roger Mortimer, and to Michael de la Pole, Earl of Suffolk.

[14] Blank space in the MS. D'Ewes no doubt meant to fill in more of his speech.

[15] The allusion is to John Rushworth, later author of the *Historical Collections*.

[16] "Resolved by Question, the Articles against my Lord Lieutenant to bee engrossed? is to bee done by the Clearke, who is sworne to the Secretts of the house.

"Ordered the same Committee that drew the Articles to draw the Interrogatories, and Mr. Pimme to carry the Articles." Peyton, f. 27. *Cf.* C.J. II, 35.

[1] *Cf.* App. B, p. 542.

against the High Commission, etc. Referred to the same committee in Dr. Leytons busines and to goe at large with a keeper as well as Dr. Leyton.

Mr. White reported that which was done at the Committee for religion in Dr. Edward Layfelds case,[2] minister of Alhallowes Birchen, which was on Monday in the afternoone Nov. 23. At which I spake.[3]

Gett a copie of this reporte of Mr. White.

Sir Henry Spiller denied iustice to one Rolf of the persons that complained at the Sessions bench and reviled him and would not have him preferr his indictment.[4] Spiller vouch[ed] Canterbury and the Bishop of London.

Dr. Layfeld rector of Alhallowes Berking ordered upon question to bee sent for as a delinquent notwithstanding hee bee of the convocation howse.

2dly ordered upon question that Sir Henry Spillers busines bee referred to the committee in his cause.

Sir Thomas Bowyer mooved that wee might expedite this charge of Dr. Layfeld and transmitt him upp to the Lordes.

And a church was pulled downe (parte still of Mr. Whites report) and that it was desired it might bee reedified, either by them that pulled it downe or otherwise. It was done by order of Counsell, but before that order the Lord Treasurour and Lord Cottington gave command it should bee done.[5]

Mr. Glynne saied it was strange that a church should bee pulled downe, etc.

The church wardens weere faine to take downe ther seates and galleries was observed by Sir Peter Haimond; but Mr. Inigo Jones[6] the Kings surveyor pulled downe the church; and hee to bee questioned.

Mr. Cage mooved it might bee recommitted to the same grand committee: and no new committee appointed.

Then an order and a select committee to meete too morrow at two of the clocke in the checquer chamber.

Sir John Wray mooved to reforme religion fullie and cutt downe poperie at the roote; and that the sacrament might bee celebrated next Sonday.

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[2] Dr. Leyfield, or Layfield, was vicar of Allhallows, Barking, London. The *Journals* contain a much fuller account of this report. *Cf.* also Peyton, f. 27.

[3] The last four words are in cipher.

[4] *Cf.* Northcote, 5.

[5] "Reported, that the Parishioners of St. Gregories, had bestowed 1500£ in beautyfying of their Churche, and that for the repayring of Paules to which it joyned, An order was had from the Counsell table to pull it downe and that by the Parishioners at their perill. Thus it became in the Lords of the Counsell's power to destroy Parishes and scatter the people." Peyton, f. 27. *Cf.* Northcote, ff. 5-6, and C.J. II, 36. See the transcript from the Privy Council Register, Car. I. IX, f. 304, in Gee and Hardy, *Documents Illustrative of English Church History* (1896), 533-535.

[6] Inigo Jones had charge of the rebuilding of St. Paul's, which was begun in April, 1631, and was continued for over nine years. In 1637 the King determined upon the removal of St. Gregory's church, which abutted the cathedral at the southeast corner. See Gardiner, VII, 307.

MR. PERD mooved to have the charge goe against the Deputie, etc. MR. PYMME seconded it,[7] etc.

And soe all the articles being engrost in parchment weere read as before, viz. on Nov. 23. Monday.[8]

The paper was amended according to the engrost parchment in a worde that had been transposed in the writing.

The message was read to bee sent to the Lordes to desire them to appoint a conference at a Committee of both Howses for the putting in of the charge against the Earle of Strafford.[9]

f. 22a] Then it was shewed by ALDERMAN PENNINGTON that the cittie required two in a bonde.[10]

To this divers spake that wee must satisfie the cittie and give what securitie they required.[11]

Then the gentlemen sent returned with the Lorde Digbie and the Lordes desired a present conference and soe wee went into the painted chamber,[12] wheere wee found the Lordes readie sett. Ther Mr. Pymme delivered the charge against the Lorde Deputie,[13] and wee putt in our articles engrost.

After the returne of the Howse MR. SOLLICITOR spake to have what wee had done at the Committee to bee putt to the question. Then I mooved though wee putt it to the question it should not hurt us, etc. and I gave a declaration.[14]

MR. HARRISON, one of the Customers sonns offered to bring in 50,000£

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[7] "Mr Pymme said, The Articles must bee delivered at a conference, and nott att the Barre as the Accusation in a dumbe shew; for upon these some discourse may arise to bee reported to the house." Peyton, f. 28.

[8] But it was the day before, Tuesday, the 24th.

[9] Lord Digby was sent up with this message. C.J. II, 36.

[10] "Alderman Pennington—That the Lord Mayor hath sent to those that have underwritten to bring in their money, being about 28000£." Northcote, f. 6. *Cf.* App. B.

[11] "Mr. St. John. That because the manner of the levying of this money upon security of such a number of members of the house, and the agreement of the summe certaine it selfe, was nott usuall and nott Parliamentary; hee mooved, That all writings and papers and records concerning it may bee when the businesse is done cancelled or burn't and soe purged from the view of Posterity; and used a President in such a like case." Peyton, f. 28. The precedent was 5 H. 4. Rawl. C 956, f. 93.

[12] Before he went to the Lords, Pym made a declaration of the substance of what he intended to deliver. For that declaration see C.J. II, 36.

[13] "Hee did deliver them with an aggravation that itt was treason against God, the King, and Kingdome; and that the leiutenant was the obstruction in the Bodie that must bee removed." Palmer, f. 68.

[14] It may well be that the following, found on f. 20b, formed the basis for that declaration.

"Nov. 25, Wednesday, 1640

"In Journall de a° 35° Eliz. a°. dm̄. 1592 when these great dangers weere threatned this realme from Spaine and Rome; the Commons then assembled in Parliament after long dispute yeilded to the grant of 3 subsidies and six fifteenths and tenths, being a greater guift then ever had been granted to her Majestie before etc., made declaration that it should not bee drawen into president etc.

"Manie alsoe have been the cautions and limitations of the Commons granting of the subsidie of Tonnage and Pondage in all times since the 45 yeare of E. 3, when it is and to take 50 mens bonde. And Mr. Harrison to bee treasurour to receive the monie or to appoint whome else hee will to receive it.[15]

It was then ordered that the voluntarie offer of the gentlemen should bee allowed in Parliament.

And ordered that Mr. Harrison should take out his fiftie men.

After this followed a needeles dispute how wee should accept of Mr. Harrisons report and offer and not neglect the citizens offer, and then some persons weere appointed to attend Mr. Harrison and the cittie to know certainlie what might bee done: and what monies provided.

Mr. Mallorie mooved that some might bee choosen and appointed to attend the Committee for drawing upp the bill to passe the 100,000£.[16]

f. 23a] Sir John Hotham made a good motion that the Commanders that weere not of the Howse might bee commanded to goe to the armie, and to looke to ther charges and to keepe them in order. And to acquaint them with the neare supplie of monie and that the Earle of Northumberland Lord Generall might bee desired to doe this, and all assented to it.

Mr. Sollicitor made a reporte what was done at the[17]

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saied to have been first granted in that yeare in the Parliament Rolle ensuing de aº. 46 E. 3, n. 15."

[15] "Mr Harrison Jun. Because the Citty seemed soe tedious in giving the house answer concerning the money: Hee mooved, that if the house pleased to lett him take choice of 50 persons out of the 100 that were offered for security, hee would furnishe the house with 50000£.

"Upon this motion, a second followed by Sir John Hotham, Who mooved, That since Mr. Harrison had made soe worthy an offer to the service of the house and the commonwealth The father (without whom this offer had nott surely beene made) might bee sent for and called in to sitt in this house: which was presently ordered with a great concurrent affection of the house.

"Note, That Mr. Harrison the father did forbeare the house upon an order there made against monopolists, That noe such person should presume to sitt there." Peyton, f. 28. *Cf.* C.J. II, 36.

[16] One knight from each shire to attend this committee. C.J. II, 36.

[17] See *Commons Journals.* This is followed by a blank space in the MS. Here D'Ewes might well have inserted the comment on procedure which he dates Nov. 25, and places on f. 22b of the MS. There is no evidence that D'Ewes, although he was evidently prepared to do so, "spake to this subject." Someone had spoken twice in the same day on the same subject; the matter had come into his mind, he had looked it up in the *Journals,* his own collections of *Journals,* and had jotted down the following precedents:

"Journal of the Parliament in aº. 43 et 44, Regin. Eliza[beth]. Dec. 8. Tuesday in Mr. Belgraves busines who was sued by the Earle of Huntington in the Starre-chamber. Sir Francis Hastings spake twice, and though Mr. Francis Bacon opposed it; yet upon allegation that hee spake to new matter in the same cause hee was permitted to speake. [For this case see D'Ewes's *Journals of all the Parliaments of Queen Elizabeth.* For the principle that no one should speak to one business in one day more than once see *The Order and Course of Passing Bills* (1641), sec. 5, and Porritt, *The Unreformed House of Commons* (Cambridge, 1903), I, 532.] *Ibid.* Nov. 25. Wednesday. The verie wordes used by Secretarie Cecill who had then been as himselfe averred of seven Parliament as himselfe averred, and vouched this order to the Howse, weere the same almost *in terminis* that I tolde you offe, viz. that noe man ought to bee interrupted; for if hee speake wiselie hee ought to bee heard, if otherwise let him speake that the howse may moore iustlie taxe him. And as Sir Robert Cecill

Post Meridiem.[18] In the Starre-chamber.

At the Committee touching the Court of Honour[19] of which I was the fifth in number appointed Nov. 23.

A peticion of John Linch and John Snelling two cloathiers of Barfold in Suffolk against Francis Warner Esquire 400 markes damages. 140£ costs, and that the whole proceedings of the Court is illegall, etc. Francis Warner.

The peticion of Robert Hale of Graies Inne, gentleman, touching some speeches used to Philip Gill a surgeon calling him rascall fined and imprisoned upon it and ordered to make satisfaction. Adiudged before the Lord Matravers.

At a Committee when a stranger is called in the chaire is onlie to speake.

The Committee to meete againe on Friday, at 3 of the clocke in the Middle Temple hall.

After wee weere risen I went into the Howse wheere sate the grand Committee for Greivances, and then weere divers witnesses in examination about Mr. Squibs patent for cardes, being a Monopolie, how hee had violentlie brooken into ther howses taken away cardes readie made, and ther stampes to make them by: and raised the price of cardes from 3d. a packe to 9d. a packe. Then was Mr. Squibb and one Mr. Thomas May a messenger whome Squibb had imploied called in: and ordered that they should noe further prosecute.[20]

November 26. Thursday.

The Communion[1] appointed on Sonday next.

Ashburton and Hunnington to bee restored.[2] Mr. Perd spake to that purpose.[3] I spake to the same purpose and shewed the reason why they

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concluded his speech then, soe doe I mine now, that it is my heartie vote that noe member of this howse may. *Plus verbis offendere quam consilio innare.*"

[18] Sir Edward Dering has recorded the minutes of the Subcommittee of Religion, which met in the Treasury Chamber on this afternoon. See *Proceedings in Kent, 1640*, 81-82.

[19] See above, p. 55, n. 7.

[20] No other account of this committee session can be found.

[1] This word is in cipher. See App. B, p. 542, for first part of this day.

[2] Mr. Maynard made the report from the Committee for Privileges and it was resolved that the two towns of Honiton and Ashburton in the county of Devon should be restored to their ancient privileges of sending burgesses to parliament. C.J. II, 36-37. According to Palmer (f. 69) Ashburton had not sent representatives to parliament since 26 Edward I and Honiton not since 28 Edward I. As a matter of fact Ashburton appears but once, 26 E. I. (*M. of P.* I, 8) and Honiton twice, 29 E. I and 5 E. II (*M. of P.* I, 13, 32). Probably there was politics in this proposal. One may suspect that royalists were being put out of parliament as monopolists and old boroughs given membership. The line-up on Feb. 8 of 1641 and the later line-up on the Grand Remonstrance were to prove that the majority of the thoroughgoing party was none too great. That fact Pym no doubt knew already.

[3] "Mr. Peard. Difference betweene Liberty and Service or attendance: Liberty by non use may bee forfeited, butt service and attendance may bee discontinued by disability and revived agen upon suite for ther restoring." Peyton, f. 28. Palmer (f. 69)

did forbeare to send was ther povertie, being not able to maintaine ther Burgesses. But now gentlemen being generallie choosen, Burroughs desire ther ancient priviledge which was but remitted to them out of the Kings favour.

And soe it was over ruled that they should serve.

Mr. Maynard made the reporte of Teuskburie of fowre persons elected and all void.[4]

f. 24a] Then ther grew a question whether all inhabitants have a voice, or onlie the freemen. And 2dly whether the freemen living out of the towne have voices.[5]

A long and unnecessarie dispute about Comminaltie whether it did not comprehend all the inhabitants.[6] Mr. Glymn Sir Walter Earle Mr. Selden[7] and others weere of opinion the Comminaltie comprehended the whole inhabitants.

Recommitted upon Question.

Sir John Hotham mooved about the monie that was to bee lent from Mr. Harrison and the cittie, etc.

Mr. Harrison saied 50,000£ should bee provided with all convenient speed, 10,000£ on Saturday, 15,000£ on Monday; and the rest as soon as is possible. And that hee had choosen 50 men out of the hundred whose names weere read.

These weere added to the Committee that are to consider of the state of the Kings armie and they are to meete this afternoone in the Checquer Chamber at two of the clocke.

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makes this a bit clearer: "That this being a service disused by povertie and that they would not beare expence of Burgesses, which service being due to the common wealthe could not bee lost as a libertie for there owne benefitt, by disuse may bee lost."

[4] "Reported also that the Towne off Tewkesburie had a Charter to sende Burgesses: The corporation was newe *tempore Eliz.* incorporated *per nominem M*[*aioris*]: *Bur-*[*gensium*] *et communitatis. Et* that the Maior Burgesses and comminaltie should elect." Palmer, f. 69. See this debate in App. B, pp. 542-543.

[5] "The opinion off the Committee that the word comminaltie would extende to all the Inhabitants not restrained onelie to those that were free off the corporation. 2. That Freeholders had noe voices who live out of the Towne and were noe Inhabitants. But the Freeholders who did not live in the Towne were confusedly admitted. And they having noe voices did make voide the whole election." Palmer, ff. 69-70.

"That the Committee iudged the Eleccion voide, because there went a promiscuous and confusd number under the Poll, of Inhabitants nott freemen, and freemen nott Inhabitants ect. soe that the certaine number of the Electors appeared nott." Peyton, ff. 28-29.

[6] "Mr. Pymme moved that the election in this case was onelie to bee by freemen who were parte off the corporation. For being by grant the King might restreine the number of elector[s] as well as grant the power off election. And this hee sayd was the constant opinion and course off the howse." Palmer, f. 70. Peyton (f. 29) makes Pym say: "All Burroughs are by Prescription or by Creation. In the first all freemen chuse. In the second according to the limitation."

[7] Peyton (f. 29) makes Selden say: "That the word *Comonalty* included all Inhabitants for where there is a Creation and Communitas expressed, it is to bee taken of every dweller in the Towne that is reputed a part of the aggregate body."

Then the busines came to bee disputed touching the Canons.[8]

SIR MILES FLEETWOOD mooved that the Convocation men being called as Convocation men, and the Parliament being dissolved that yet they sate and made lawes.

MR. GLYNNE conceived the canons weere illegall canons, etc.[9]

1. Consider what the common law was before the Statute 25 H. 8, 19[10] and soe this concernes all Canons.

At common law noe canons or constitutions did bind the subjects of England without ther consent.[11]

By the common law a man might have disposed of his tithes wheere hee pleased and then comes a Constitution to order and rule, wheere tithes should bee paied.[12]

Noe canon by the iudgment of the law did binde the subjects of England wheere it concerned matter of Freeholde.

The canons of generall Councels did not bind everie wheere.

As in an act of Parliament all must concurre King and both Howses or else all is void; soe heere because the Parliament consents not.[13]

In the yeare booke de a°. 21°. H. 6, ther is a strong case to this purpose.

Thus stood the Common law. Then comes the Act de a°. 25, H. 8, cap. 19.[14] And that enacts that many wicked canons had been formerlie made; it restraines them what they should not doe, but gives them noe power what to doe: and wee are in a farr better case by the hope of that statute then ever wee weere before.[15]

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[8] See Nalson (I, 351-376) for an account of the meeting of the Convocation and the passage of the seventeen canons. For an explanation of the attitude of parliament towards the canons, see Hamilton's note to Northcote, 6, n. 4. See further, W. A. Shaw's excellent *History of the English Church, 1640-1660* (1900), I, 225, 231-232.

[9] "Though pressures upon soule and bodie yett evri one doth not knowe the legallitie or illegalitie. Not to argue but deliver my opinion, according to conscience; which is they are illegall." Palmer, f. 70.

[10] 25 H. 8. cap. 19. See *Stat. of the Realm,* III, 460-461.

[11] "That noe canons bounde but those [that] were admitted and receaved by usage." Palmer, f. 71.

[12] "Before Counsell off Lateran evri one might arbitrarilie dispose tithes. Then came a canon to restraine this to the parishe and the patrons to present within 6 months. This innovation by canon yett receaved and used and therefore common lawe and not canon law . . . The common lawe admitts noe constitutions but usage and custome makes the lawe." *Ibid. Cf.* Northcote, 8.

[13] "There must bee conjunction off all the state to binde themselves. As the lords cannot binde themselves without consent [of the King and Commons] nor the commons [without consent of the Lords and King]. So there cannons cannot binde without consent [of the King and Parliament]." Palmer, f. 71.

[14] See above, n. 8. In his rough draft of this speech (f. 24a), D'Ewes adds here, "Ther 16 of the convocation howse 8 Lords and 8 of the Commons, etc. and none to bee enacted or put in execution, that are contrarie or repugnant to the Kings prerogative roiall or the Customers lawes or statutes of this realme."

[15] "The Act that they shall not presume to make canons but when called by writt. That the Kings licence must bee had. Proviso they must not bee contrariant or repugnant to the lawes customes and statutes. Observed that H. 8 so much mainteined his

And for ther constituting a new oath that is utterlie unlawfull.[16]

f. 25a] Nothing can enioine a new oath but an act of Parliament.[17]

Then long dispute ensued who should speake divers stood upp and at last ruled for Mr. White and the speakers eye adiudged to bee the rule.

MR. WHITE argued that these Canons weere utterlie against law; and hee much doubted of the old.

For by these new Canons all our religion, all our safeties and all our estates in jeopardie:[18] nay these new canons are to subvert our liberties. Deut. 17. 18, 19.[19]

Noe law cann bee altered but in and by Parliament. These canons subvert the lawes which are the flowers of the Crowne: and the meanes by which the Crowne is maintained.

The oath verie dangerous and enacted uniustlie, in which hee shewed many particulars.

In the peticion of right[20] noe new oath ought to bee administred. Jer. 19, 5. Ca. 2. last.[21]

MR. CHEDWELL, a common lawyer, alsoe against the canons. And that the Bishopps cannot make canons against the law of the lande.[22]

They have power to make canons soe as they bee not repugnant to law.

MR. PERD argued that for ther [*blank*].[23] The oath the hooke the Canons the baite. Agree that they may make Canons, but not against the law. Noe authoritie to make an oath. The oath is absurd. because it containes in it that[24]

2. Scandalous, to all other Churches, either our strong brethren[25] of Forraigne Churches, etc. Soe it is scandalous to the weake brethren who say now wee see what will, etc.

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prerogative hee could not have praide the aide off the act of parliament iff hee had a power before." Palmer, f. 72. *Cf.* Northcote, 8.

[16] "The oath cannot bee imposed. *Nemo tenetur se ipsum prodere.*" Palmer, f. 72. For that oath see Gee and Hardy, 536.

[17] "And therein the Canon against Common Law." Northcote, 8.

[18] "That these as they are made are highe intrenchments upon lawes and liberties. May be a plott to blow up religion not onelie in present but in future." Palmer, f. 73.

[19] Chap. 17, verses 18, 19. *Cf.* Palmer, f. 73.

[20] "3 Car. The Petition of Right against unwarranted oathes." Palmer, f. 74.

[21] D'Ewes skips much of the speech which is given in Palmer. A long page after the allusion to the Petition of Right, Palmer (f. 74b) makes White say: "Jeremie 5 v. [*blank*] threatens them iff they bring in any other worship." No doubt the reference is to verse 19, as D'Ewes probably meant.

[22] Palmer (ff. 75-77) gives many fragments from this speech, mostly the citation of precedents. *D.O.* (7) says: "Master Chadwell of Lincolns Inne [argued] for them" (*i.e.*, the canons). So far as I can interpret Palmer's fragmentary notes, Chadwell argued that it was not necessary for the validity of canons that parliament should agree to them, but that the canons could not controvert the Common Law.

[23] "They [the clergy] have power *in rebus fidei* for instruction and for admonition. Naturall to excommunicate. Gives over testaments, marriages, tithes." Palmer, f. 77.

[24] "That doctrine and discipline should conteine things necess[ary] to salvation." Palmer, f. 77.

[25] "Those off Scotland." Palmer, f. 77.

3. *Insidia*[26]

Againe in other partes it is contradictorie, what plaine sence is in an etc.

2. It is a wicked oath, because this oath is not true; because hee doth sweare to an etc.

3. As if the Israelites had sworne never to put downe the brazen serpent, etc. If the Bishopps doe well wee shall honour them.[27] Wee shall never perswade the Bishopps that they are impotent.

A grant of a parke under hand and seale, etc. 1 R. 3,[28] enacts that noe benevolence shall bee exacted, etc. The peticion of right is that ther should bee noe loanes. They appoint benevolences, etc.

I spake, etc. as appeares fol. 292, a and b *postea*[29]

Mr. Selden desired to send for the commissions by which the convocation howse wee

Post meridiem.

At the Grand Committee for the Irish Affaires 3 peticions weere preferred by Sir Fredericke Hamilton[30] against severall persons, etc. And one preferred by Sir Henrie Wallop, etc. all shewing the unjust proceedings of the Lorde Leiftenant.

f. 26a] November 27. Friday. 1640.

One bill for the naturalizing of certaine persons was read the first time.[1]

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[26] "3 insidious. must bee taken by all. This age so wise that matters knowne to bee indifferent, hereafter all these things may bee considered as necessarie and then poperie introduced and like the divell retorns with 7 worse." Palmer, f. 78.

[27] "I thinke well off Bishops, those in the apostles tymes. Glad to see rivers runn in there channells not to overflowe the Lands. That bishops never so badd cannot bee removed." Palmer, f. 78.

[28] 1 R. 3. cap. 2. *Stat. of the Realm,* II, 478.

[29] The pages to which he refers are blank. Most of this speech is to be found in Harl. 163, ff. 7-8 verso. I have ventured not to insert it. D'Ewes left a place to copy it in, and wisely enough failed to do so. The first part of the speech is missing, and the speech stops short of its conclusion. What we have is D'Ewes's copy of what were probably the notes of some friend upon it. It is one of the poorest of D'Ewes's many efforts. There had evidently been confusion before D'Ewes rose to speak and the confusion abated not at all as D'Ewes paraded his learning. He refers to the confusion, to the "admonitions" and "increpitations," promises to be brief, turns aside to mention and then to discuss freedom of speech, and finally stops short with protest against those who hinder members from "finishing what they intend to speake" and against the "interrupting toung." D'Ewes was not so well informed on the subject of the canons as on many other subjects, but he must speak, and his half prepared, half extemporaneous production was general rather than specific upon the points at issue; it lacked cogency and continuity, and was obviously not appreciated by his audience.

[30] This case was still on in September. See the news-letter in *Cal. St. P. Dom. 1641-1643,* 122. About Hamilton see J. T. Gilbert, *A Contemporary History of Affairs in Ireland, 1641-1652* (Dublin, 1879-1880), I, 50; *Strafforde's Letters* (Dublin, 1740), I, 250, 281, II, 285.

[1] "James Booth Susan Booth and [*blank*] of Leeds." Rawl. 956, f. 110. *Cf.* C.J. II, 37.

An act for the confirmation of divers estates to copihold tenants in the Dutchie of Lancaster, etc. First reading.

Mr. Glinne reported what was done at the Committee Nov [*blank*] for greivances at which I was touching Alderman Able and Rowland Wilson ther abusing certaine persons that preferred a peticion hither, etc. The Committee thought him worthy of great punishment: Alderman Able especiallie:[2] and soe submitted it to the Howse, and Conradie saied one of them was a sawcie knave, told James Master soe.

Sir Walter Earle mooved that hee might first bee fined and committed for this offence: and then to question his Monopolie.

The Howse agreed Alderman [*blank*].[3]

Sir Arthur Ingram reported that John James papers had been searcht and nothing found but some papers and letters of noe moment.

Then the Howse thought fitt hee should loose his hand[4] and his goods and lands and bee perpetuallie imprisoned: and this to bee passed by an act.

Mr. Mallorie mooved that Mr. Heyward might have sufficient amends out of the goods of John James.[5]

Sir Henry Anderson mooved that wee might suspend his punishment awhile till wee had further enquired into his case.

And wheereas it was pretended hee was a madd man,[6] all circumstances shew that to bee false: for hee confesseth himselfe hee did it maliciouslie and is able to answeare subtillie to all other questions.

Mr. Hamden mooved ther should bee a recommittment to the former Committees and some new to bee added, viz. Mr. Maynard and others, etc. to meete on Monday next at 2 of the clocke in the Starre-chamber, etc.

The order was made.

Then it was ordered that Mr. Chambers peticion should bee read on Wednesday morning next. And other orders of lesse moment weere made.

Then Sir Thomas Withrington mooved to know if an act of Parliament would suffice to abolish shipp-monie.[7]

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[2] "Alderman Abell asked such a one ect. how he darest present a petition against him without acquainting the Company with it." Peyton, f. 29. Abell was an important member of the Wardens and Company of Vintners.

[3] "Ordered that Alderman Abell, Rowland Willson and Wm. Conradus be sent for hither forthwith as Delinquents." C.J. II, 37.

[4] "Mr Maynard said, noe Act need passe for taking off his hand . . . for their is provision for it already: for hee shall forfeit his hand that strikes another before any Court of Justice, and his landes too if it bee in the kings presence." Peyton, f. 29. There had been a motion to make James's offense felony without benefit of clergy. Pym had spoken for a lighter punishment. Northcote, 11. See App. B.

[5] Peyton makes Maynard move that "Hayward might have a consideration out of the estate of James to him and his children." Thomas Knyvett writes to John Buxton (Nov. 24): "This James is a man of four or five hundred per annum." Buxton MSS., *MSS. in Various Collections* (*Hist. MSS. Comn.*), II, 260.

[6] Rudyerd had explained that James's brother was a lunatic. Northcote, 11.

[7] *Cf.* Northcote, 11.

Mr. Pymme mooved to waive that question.[8]

Then Sir John Hotham mooved about the monie in the North and the condition of the obligation.

Then Sir Walter Earle mooved that Mr. Saint John (having had licence to name him) might sett us into a way for the shipp monie.

Mr. St. John saied that *bonum publicum* might turne into *malum publicum.* Noe use of Parliaments if shipp-monie stands.[9]

The Judges in writts of error have desired to advize with the Parliament what the law was.

In the Peticion of right the Lordes would have had a clause added,[10] which after upon a full conference was left out; and then it was agreed the King could lay noe taxe but by Parliament.

The safetie of the kingdome

Ther was first a Commission to 16 Commissioners. Then to 32 commissioners to raise monies by impositions or otherwise *quia salus regni periclitabatur.*[11]

Hee did argue for the propertie of goods not concerning shipp monie.[12] f. 27a] Hee further mooved to have the former Judgments in Parliaments to bee referred to a Committee and to bee considered offe[13] which others agreed to.

Soe an order was made and a Committee appointed, etc. to that end.

Mr. Selden mooved that Tonnage and Pondage, and the decree in the checquer chamber that noe replevin should bee.

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[8] *Cf.* Northcote, 11.

[9] "The opinions of the Judges and the reasons of the Judgments were the greivances now and nott the shipping-money: it overthrowes Magna Charta and all our liberties. Tis a sword with 2 edges, for where *bonum publicum,* as repayring of Bridges, building of Castles mending of waies ect. and *malum publicum* fall in, there may begin a ground of raysing of moneyes upon the subiect. If this stand then Parliaments have noe power, for this is a Judgment of Parliament overthrowne by the Judges. Whereas Judges have come to the Parliament to know what Law was." Peyton, ff. 29-30. "The ship monie grounded upon *Bonum Publicum* but *malum publicum* iff the King may thus levie monie. Hee may doe itt for ambassador[s], etc. for Forts, Castles, Bridges, etc. by this the gate sett open, the Bridges taken awaie; iff this standes this howse hath noe power of Judicature; then for noe end but to give subsidies." Palmer, f. 79. *Cf.* Northcote, 11-12. St. John was alluding to the old *trinoda necessitas.*

[10] Palmer (f. 79) gives elaborate notes of St. John's discussion of the Petition of Right. *Cf.* Northcote, 12. For an account of what occurred in 1628 see Gardiner, VI, 279-289 and Relf, F. H., *The Petition of Right* (Minneapolis, 1917).

[11] "2 Car. a commission brought into the howse. The King was engaged in a warr his treasure exhausted and hee resolved to call a parliament. Preparations att sea and lande did threaten her *salus rei publicae periclitabatur.* Yett the commission declared unlawfull. 3 Car. a commission to 33 lordes the affaires abroade required monie and could not staie a parliament. . . . This the recitall off the commission yett this condemned by the petition of Right." Palmer, ff. 79-80.

[12] "From Tonnage and Poundage have come all the objections against the propriety of the subjects." Peyton, f. 30.

[13] "Moved a committee to bee apointed to consider these commissions to enter them, and that these may bee presented to the Lords." Palmer, f. 80. *Cf.* App. B, p. 543.

MR. SELDEN mooved that Tonnage and Poundage may bee added to the committee, etc.[14]

SIR WALTER EARLE mooved that wee might onlie moove at the Committee for Shipp-monie.

I mooved to have added tonnage and pondage to bee considered of by that Committee and shewed that in Rot. Parl de a°. 46°. E. 3, n°. 13°. n°. 15°,[15] it is shewed that it is a meere subsidie; and being now levied without authoritie of Parliament growes to bee an arbitrarie and an infinite taxe, etc. as well as shipp-monie; and by the same reason infinite additions might bee made. Tonnage was at first but 3s. on a Tonne and 1s. on each pounds worth of other goods that weere not staple commodities. That it was formerlie often granted but for a yeare and often with this clause f. 26b] as appeares upon this record in the Parliament Rolls that they did grant it freelie as a thing whollie in ther owne power, and soe the Kings acknowledged it. Tis true that the Kings of England have a verie vast glorious and great prerogative which the Common law gives them and when they transgre[ss], they make a way to an infinite power.

f. 27a] Soe after some other speech this order was made.

Then a Committee of the whole Howse to consider of the bill to bee framed for Tonnage and Pondage.

A message from the Lordes sent by Sir Edward Littleton, etc. and Sir Robert Bartlet, knight, one of the Justices of the Kings bench.

The Lordes doe desire a conference of 30,[16] etc.

Then after long debate this answeare was sent that, wee would send to them in convenient time by a messenger of our owne.[17]

The Speaker sate covered both when they did [read] ther message and when they departed.

Then followed many motions to have drawen a bill of Tonnage and Pondage and Tuesday next was appointed for a committee of the whole Howse: and MR. PYM mooved to further it.

But then MR. SAINT JOHN mooved that wee might not in the beginning of the Parliament grant Tonnage and Pondage: and Sir Walter Earle seconded him[18] and soe the motion died and came to nothing.

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[14] Following Selden, "Mr. Pimm. That another Committee be appointed to consider of tonnage and poundage, and to think of a recompense to his Majesty." Northcote, 12. Selden is more explicit in App. B, p. 543.

[15] *Rot. Parl.* II, 310.

[16] "The Lords desire a Conference (by a Committee of Thirty of their House with a proportionable number of this House) concerning the message that was brought unto them by Mr Pimme, touching the Examination of their members, in the Accusation of the Earl of Strafford; and desire a free conference, touching the last point of that message, 'that some of the members of this House should be present at the examination.'" C.J. II, 38.

[17] It was probably in the discussion of this conference that Pym said: "At a Conference wee only bring our Eares, at a Free conference there is liberty to speake, butt it must bee only in maintenance of old matter, and by noe meanes to make overture of new." Peyton, f. 30. *Cf.* below, p. 543.

Then was read a peticion of Thomas Rich Esquire; against one John White that by himselfe or one Mr. George a burgesse in the Howse who had extreamelie abused the cuntrie under coulor of nusances upon the river of Thames, and had extorted many summes from them.

Sir John Hotham mooved this to bee referred to the Committee of Monopolies.

Sir Thomas Roe mooved to have it referred or otherwise but that in the mean time Mr. George might forbeare the Howse.

Upon Mr. Pyms motion time was given to Mr. George to defend himselfe till too morrow morning, and hee spake somewhat to little purpose to iustifie himselfe.

A Committee named to search.

Rot. Parl. 50^{o}. E. 3, n^{o}. 34^{o},[19] in the Lord Nevills case, and in the same Parliament.

Rot. Parl. 1 R. 2, n^{o}. 38^{o}.[20]

A Committee named to search presidents, etc. Mr. Saint John Mr. Selden Mr. Palmer Mr. Pimme Sir John Culpepper Mr. Grimston Sir Simonds D'Ewes and to meete this afternoone at 3 of the clocke in the Treasury chamber. This Committee or any two of them are to veiw these presidents cited by Mr. St. John or any others, that may conduce to that busines and to present the state of them to this Howse too morrow morning.[21]

f. 28a] Post meridiem.[22]

Divers of the Committee touching the Earle Marshall and the Court of Honour sate in the Middle Temple hall wheere I was awhile and wee had Mr. Roles[23] case in agitation and then I went to search presidents.

November 28. Saturday. 1640.

An Act about the Countie Palatine of Durham, etc. read the 1 time.[1]

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[18] Perhaps this is the speech reported by Peyton (f. 30) at the end of the day. "Sir Water Earle said, The authors of the additions to the Petition of right were the authors of a most foule slander."

[19] *Rot. Parl.* II, 328-329.

[20] *Rot. Parl.* III, 10. For this matter, *cf.* App. B, pp. 543-544.

[21] *Cf.* C.J. II, 38. It looks as if D'Ewes walked up to the clerk's table and copied this assignment.

[22] For the minutes of the Subcommittee of Religion on this afternoon, see *Proceedings in Kent, 1640,* 82-83.

[23] For the Rolles case see N. and R., *Commons Debates, 1629,* index, under Rolles.

[1] To "have Knights, Citizens, and Burgesses, to serve in the Commons." C.J. II, 38. A bill to give representation to the county of Durham was part of a larger measure introduced in the parliament of 1563 (C.J. I, 63 (2)), but was dropped before the second reading in the Commons. A motion to the same effect was introduced in 1614 and debated (C.J. I, 457). A committee report was made upon it (C.J. I, 484). In 1621 a bill to give representation passed both houses (C.J. I, 539, 553, 592; L.J.

A peticion of Thomas Bruers read against the high Commission Court, etc.[2]

And therupon ordered to referre it to Dr. Laytons Committee and to have libertie to followe, etc. as Dr. Layton, etc.

A peticion of Dr. Cousens read, etc., very reasonable.

Then the Speaker had a letter from him which hee would have had read, but the Howse refused it, as a matter contrarie to the order therof.

Then was a Peticion read from the towne of Banburie delivered by Mr. Say the younger;[3] touching a wicked vicar at Banburie that put downe preaching, and vexed them that weere godly who sought it elsewheere, and when hee had ordained a communion, let them neither have sacrament and sermon. Hee gave licence to one to marrie his neice etc. That hee would not read the words *faith is faction and religion is rebellion,* etc. Nor would read that Act of Parliament[4] [on] Nov. 5, 1639, which is appointed to bee read though the church wardens brought him the statute booke: and hee saied some of the Nobilitie called in the Scotts, and now they durst not appeare.[5]

It was referred to the grand committee for religion. Some moved to have it referred to the sub-committee. But Mr. Cage saied the Howse tooke no notice of sub-committees; but the Grand Committee is to referre it to the sub-committee.

III, 113, 132, 146, 149), but failed to become law, as did all other bills, because of the abrupt ending of the parliament. A similar bill passed both houses in 1624 (C.J. I, 747, 749, 766, 782, 786; L.J. III, 362, 399, 407), but the King refused to ratify it because "the House of Commons was already too large and that some decayed towns, as Old Salisbury, must be deprived of their members before this desire could be granted" (Nethersole to Carleton, June 2, 1624, *Cal. St. P. Dom. 1623-1625,* 265-266). The Commissioners for the loan in 1627 reported that the people of the county felt that "either they should be called to parliament or enjoy their ancient exemptions [from subsidies]." *Cal. St. P. Dom. 1627-1628,* 121. March 29, 1640, during the Short Parliament, Sir William Bellasis wrote to Windebank: "Our gentlemen and freeholders are still very desirous to have knights and burgesses like their neighboring counties, and they have with a general consent entreated my brother Darcy and myself to solicit the business." He asked Windebank to move in the matter. *Cal. St. P. Dom. 1639-1640,* 593. In the Victoria *History of the County of Durham* (II, 167-168) there is an account of Durham's efforts for representation, which is however incomplete and not wholly accurate. Lapsley (*The County Palatine of Durham* (1900), 299) states that Durham was not represented until 1673. See also Hallam (1846, II, 204). But there was of course representation during the Interregnum, in 1656 (*M. of P.* I, 504). In 1654 the county appears for the first time with the note, "no returns found." *M. of P.* I, 500.

[2] Brewer was an Anabaptist who had been imprisoned fifteen years upon a censure in the High Commission Court. *D.O.* 8. For this and Cosin's petition, *cf.* App. B.

[3] "Viners, that presented this petition, was called in, and did acknowledge the hand to the petition to be his; and that he delivered it by order, and on the behalf of the town of Banbury." C.J. II, 38.

[4] An Act for a public Thanksgiving to Almighty God every year on the fifth day of November. *Stat. of the Realm,* IV, Pt. ii, 1067-1068.

[5] The same petition was presented to the Lords, where the wording is much clearer. L.J. IV, 108.

The order.

A letter directed out of Ireland to the Howse of Commons. The Speaker was ordered to open it, and it was found to bee a peticion from the officers and marchants in Irelande.[6] The Speaker received it from Mr. Burlimachie[7] this morning, who received it in a letter sent out of Ireland. It was referred to the Committee that was to draw upp the charge against the Deputie or Leiftenant.

Mr. Whistler stood upp and reported what had been done at the Grand Committee for the Irish affaires [*blank*] in the afternoon last past at which I was.

First hee shewed that these who peticioned could not gett ther witnesses over without infinite cost. 2dly The Chancellor Master of the Rolls and other officers to bee examined which could not well bee sent for from thence.[8]

Heereupon an order, etc.[9]

f. 29a] Mr. Glinne reported from the Committee of Recusants[10] about a proclamation and a clause of a *non obstante*[11] 1. Papists come to London, etc. 2. Papists convict have dispensations, etc. 3. Many have places of attendance. 4. Many papists have long setled heere and now the place of ther abode is heere, and soe in all these 4 respects they are out of the Proclamation; and therefore the advice of the Howse was required in that particular.[12]

And therupon ordered it should bee referred to the Committee for religion to draw a bill against licences and to frame the heads of a peticion to bee preferred to the King.

Others spake to the number and danger of the papists.

And then a Committee named to frame this bill and others, viz. Mr. White and others.[13]

I gave an account of what presidents I had searched[14] in respect of the examination of the Presidents as in the paper I have sett downe, refuting first Mr. Saint Johns two Presidents: and then shewed what might have been done further and wheere I hoped to finde, etc.

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[6] "Of their great Impositions there upon merchandize, and the exactions above the booke of rates; and that the Committees there are not suffered to goe for England." Peyton, f. 30.

[7] Postmaster of England. The letter is mentioned in Rushworth, IV, 64.

[8] *Cf. ibid.*, 65. See also App. B, p. 544.

[9] "This whole matter, thus reported from the Committee for Irish affairs, is recommitted to the same Committee, again to consider of it; and to draw those things that are to be inquired of, under apt heads; and to present them to the judgment of this House, to proceed accordingly." C.J. II, 38.

[10] Glynn's report is much clearer in the *Journals* (II, 38).

[11] "They would have a *non-obstante* to all suche licenses." Peyton, f. 30.

[12] Recusants commanded "to depart to their own dwelling-house" often have homes in or about London and cannot, by law, be forced from them. C.J. II, 38. *Cf.* Peyton, f. 30.

[13] White and eleven others added to Committee for Inquiry after Recusants. C.J. II, 39.

[14] What follows must be the report in the Commons of the Committee appointed Nov. 27. That committee was to report the next morning.

f. 29*b] Rot. Parl. de a^{o}. 4^{o}. E. 3, n^{o}. 1^{o}.[15] The proces and iudgment against Roger de Mortymer for treason. n^{o}. 2do.[16] against Simon de Bereford Knight; n^{o}. 3^{o}.[17] against John Matravers knight, and n^{o}. 4^{o}.[18] against Bogo de Bayon and John Deverell n^{o}. 5^{o}.[19] against Thomas de Gurnay and William de Ocle.

Yet n^{o}. 6^{o}.[20] Ther is memorable passage worthie a further disquisicion for the Lordes doe acknowledge that they are not in Parliament by law to give iudgment upon noe others then ther fellow Peeres; and then (as I conceive submitting to better iudgmente) it may bee thence stronglie inferred that the iudgment and censure of all others did pertaine and belong to the Howse of Commons.

Rot. Parl. de a^{o}. 1^{o}. E. 4, a n^{o}. 17^{o}. ad n^{m}. 31^{m}.[21] Divers attainders of H. 6 and other persons. May 16, a^{o}. 14^{o}. Eliz. Journall, etc.[22]

Rot. Parl. de a^{o}. 2do. H. 4, n^{o}. 30^{o}.[23] The attainder of the Earle of Salisburie and the Lorde D'Espencer.

Rot. Parl. de a^{o}. 21^{o}. R. 2. Fasciculo 2do noted with the letter F consisting of divers Rolls wheerein are conteined the attainders of the Duke of Glocester, the Earles of Arundel Warwick and others.[24]

William Rickhill N^{o}. 2do. by commission from the King tooke the Duke of Glocesters confession.

Ther is a 3d Role in the same yeare touching the same attainders intituled *Placita coronae coram Domino Rege in Parliamente suo apud Westminster die lunae proxime post festum exaltationis sanctae crucis a^{o} regni Regis R. 2. post conquestum 21^{o}.* The Lords and the commons required the Duke of Gloc[ester] being dead might bee adiudged a traytor.[25]

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[15] *Rot. Parl.* II, 52-53.

[16] *Ibid.*, 53.

[17] *Ibid.*

[18] *Ibid.*

[19] *Ibid.*, 54.

[20] *Ibid.* D'Ewes's conclusion is doubtful.

[21] *Rot. Parl.* V, 476-483.

[22] See D'Ewes's *Journals of all the Parliaments during . . . Elizabeth*, 206. D'Ewes has crossed out after the words *Journal, etc.*, the words *Rot. Parl. de a. 3. H. 5. The attainder of Richard Earl of Cambridge and others.*

[23] *Rot. Parl.* III, 459.

[24] *Rot. Parl.* III, 351-352.

[25] The original commission, with Judge Rickhill's answer and Gloucester's confession under seal, is improperly placed in one of the rolls of Parliament of the 11th of Richard II. In the rolls of the 21st of the same king there is another very faulty copy. For a discussion of this matter, see James Tait in the *Owens Historical Essays* for 1902, pp. 204-205. He believes that the genuine record was inserted in the parliament roll of Richard's eleventh year, that it might escape observation.

f. 29a] MR. SAINT JOHN IUSTIFIED the first President de a°. 50°. E. 3. Rot°. 34°. but waived the 2 de a°. 1°. R. 2, n°. 38°. et 39°.[26]

MR. PYMME and MR. GLYNNE thought it verie necessarie that some of this Howse should be present.

MR. MAYNARD mooved that wee might see the particular presidents and not goe upon uncertaine grounds, though otherwise hee counted it verie necessary for some of our Howse to bee present.

MR. WHISTLER shewed alsoe the great necessitie of some of ours to bee present at the examination, and soe did others argue.

MR. TREASUROUR shewed that if wee could not shew President the Lordes would hardlie bee perswaded by reason to let any of the Howse of Commons bee present at the examination.

I tolde them shortelie ther weere but two wayes either wee must claime it of right; and soe proove it by president; or else of curtesie and claime it by favour. I agree that it stands with equitie iustice and necessitie wee should have some ther: I wished I could furnish them with an hundred presidents: but unles wee are sure wee must onlie see what the Lordes will yeild unto.[27]

Then a Committee named to goe and prepare reasons. Mr. Saint John and others[28] weere named and went presentlie about it. SIR SIDNEY MONTAGUE often named mee for one but I desired to waive it.[29]

The condition of the bonde to bee entred into and read and allowed.

SIR THOMAS ROE mooved that some members elect and not yet returned might receive too morrow: and write ther names and then adde, elect Burgesse or citizen of such a place.

Ordered.[30]

SIR JOHN HOTHAM made reporte touching the course they had sett downe for the Scottish armie: and how they would in convenient time report it.

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[26] *Rot. Parl.* II, 328-329; III, 10.

[27] "Great Debate was here had; whether the Commons were to bee by the Lords, or a select number of them, when the Lords tooke the examination of the witnesses against my lord Strafforde upon such Interrogatories as should bee presented to them by the Commons; And if the Lords should make a nicety of admitting their supplementall proofes, what should bee done?

"Mr Glyn. Generally it is true that after examinations are taken and nott sufficient, it is nott suffered to have supplementall proofe. The parties may nott bring in new Interrogatories; because where parties prosecute upon their owne Interests, who knowes what perjuries may bee stirred up, ect. The Judges *ad informandam Conscientiam* may examine parties themselves, ect. The house is nott a party here butt a Judge.

"Mr Lane. That supplementall proofes were in cases Civill betweene party and party; butt this is Criminall." Peyton, ff. 30-31. *Cf.* App. B, p. 544.

[28] Six others. C.J. II, 39.

[29] D'Ewes may by this time have realized that much citation of precedents was making him a little ridiculous.

[30] See C.J. II, 39.

And after some others had spoaken to the same purpose.

It was ordered that Sir William Udall should receive the monie that should bee lent by the cittie and Mr. Harrison to bee sent to the two armies in the North parte. Parte to bee carried by a convoy to the Kings armie and the other to the Scotts armie to bee carried to Rippon and delivered to such gentlemen as have undertaken for the contribution of 850£, the day which is to bee paied by the foure of the Northren counties that are charged.[31]

f. 30a] Sir Peter Hayman added that this monie should onlie goe for the contribution paied by the Counties since the composition made since the late treatie, but for some 16 or 17000£ paied before noe allowance should bee made.

Alderman Pennington saied for the 25,000£ the cittie desired noe securitie, that was first to bee paied downe from any members of this Howse. Which motion was highlie approoved and Mr. Treasurour stood upp and wished thankes might bee given to Alderman Soames[32] and Alderman Pennington, in the Howse: and that they might thanke the Lorde Mayor and Aldermen. Soe 30,000£ is to goe to the Kings armie and 20,000£ to the Scottish armie, that is to ease those Counties that pay contribution.

Sir Thomas Roe mooved to know whether if this 20,000£ bee paied the Scottish Commissioners will give ther wordes the cuntrie shall not bee plundered till the other 30,000£ bee sent.

Question whether Sir William Udall should not receive the whole 50,000£. And then many spake and interrupted the question, and would have Sir William Udall receive only soe much as was to bee sent to the Kings armie. I wished the whole 50,000£ to bee put to the question, etc.

The Lorde Digbie mooved that, etc.

Sir Ralph Hopton. The monie might bee prepared and tolde and made ready, and that the busines might then bee expedited.

Sir Henry Anderson conceived the Committee to bee great alreadie and wished noe moore to bee added.

Question: and upon that ordered that the busines concerning the monies should bee recommitted backe to the same committees, to treate againe with the Lordes Commissioners according to a former order etc., and to meete this afternoone at two of the clocke in the Checquer chamber etc., and to make reporte on Monday morning the first.

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[31] *Cf.* Northcote, 14, and App. B, p. 544.

[32] Alderman Thomas Soames, one of the four aldermen imprisoned in May, 1640, for refusing to comply with the King's demand of a loan of 200,000£ from the city. The demand was made on the 7th and on the 10th the Lord Mayor and Aldermen were supposed to come before the Council with a list of such persons in their several wards as they believed to be capable of bearing their part of the loan, rated according to their means. They came without the list and it was then that Strafford made the statement used as the basis of the 25th article against him. See Rushworth, VIII, 583-586; News Letter of Rossingham to Conway in *Cal. St. P. Dom. 1640*, 155-156.

Post meridiem.

At the grand Committee for Religion Dr. Clarke, a minister in the towne of Northampton, was questioned for divers innovations and for saying that some that appealed from the Archbishopp to the Delegates, did all one as if they had appealed to the Pope. Hee made a reasonable modest defence, but ere hee was aware called the wine sacred wine after the Communion was ended.

Dr. Sybthorpe[33] another Doctor of Divinitie in Northamptonshire was questioned for saying being then surrogate, that if the Mayor of Northamptons seate stood above the Communion table, hee would sitt above God Almightie. Hee was present alsoe and saied hee was new come to towne, and desired a copie of the peticion against him; and time to answeare. His meaning was doubtles that when the Elements weere consecrated in the sacrament they then became the verie bodie and bloud of Christ.[34]

f. 31a] November 30. Monday. 1640.

Mr. Pymme mooved that one Mr. Owen of this Howse having protected one that was not his meniall servant, that the Howse would dissolve the protection, which was granted, but Mr. Owen had time till too morrow morning to give an account to the Howse of this business. The Vote of the Howse was, that none could protect anie but ther meniall servants.

Therupon an order followed.[1]

It was ordered formerlie that Henry Darley Esquire[2] should bee sent for hither from Yorke wheere hee had been imprisoned neare two moneths, etc. They would not bring him upp till the terme was done, that soe hee might have noe Habeas Corpus. This morning the gentleman peticioned againe to bee freed upon baile and supposed if the Judges may baile him in terme, then they may baile him out of terme,[3] and soe Sir Arthur Ingram and Mr. Purferey went as from themselves to the Lorde Cheife Justice of the Kings bench to know if hee would grant a habeas corpus or take baile, they away about it at the present.[4]

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[33] Dr. Robert Sibthorpe had preached a sermon on "Apostolical Obedience" at the Lenten Assizes in Northampton on Feb. 22, 1627, urging compliance with the demand for a loan. The sermon was approved by Laud but involved Sibthorpe in trouble with his parishioners. See Gardiner, VI, 206-207, 237. See also N. and R. for the Commons accusations against him in 1629.

[34] At this same Committee of Religion it was "Ordered by them a Sub-Committee to take into consideration the state of Magdalen College Chappell; and other abuses in the Universities of Oxford and Cambridge, ect. Wednesday 2 a clocke Court of Wardes." Peyton, f. 31.

Cf. Townshend (*Diary, Worc. Hist. Soc.*, 1915), 16, who gives the membership of this subcommittee. Sir Robert Harley was chairman. On Dec. 22 this subcommittee was made into a committee (C.J. II, 55) and was to meet on the following afternoon. On that afternoon Edward Corbett's information was brought before them. *Cal. St. P. Dom. 1640-1641*, 325.

About this committee see also below, p. 96, n.; p. 399, n.

[1] See C.J. II, 39.

[2] Darley had been imprisoned in York Castle by order of Strafford. His petition was presented by his brother Richard, member for Malton, Yorkshire. See L.J. IV, 100, 102. *Cf.* C.J. II, 28.

[3] "Mr. Speaker the Terme was ended and that noe Habeas Corpus could bee granted.

Mr. Rouse made a reporte that one Mr. Wilson a minister was forbidden to preach in his owne Church on the weeke day. 2, hee was sequestred from 1634 to 1638 from his living 3 or fowre yeares for not reading the booke of libertie.[5] 3, hee was sent for by a pursuivant for not reading one of the new arbitrarie praier against the Scotts:[6] Now the committee referred these 3 particulars to the Committee. Mr. Pymme mooved that this and others might bee given upp and made readie together.

I added that I agreed well with Mr. Pymme but desired to add one worde touching the booke for the profanation of the Lordes day that never anie publike edict, etc. The Saxon homilie, thæne dæg etc.[7]

A peticion preferred against Serjeant Hide undulie returned one of the Burgesses of the Cittie of new Sarum, etc. That hee was an enemie to preaching, an allower of shipp-monie with divers other crimes: which weere alsoe witnessed and sett downe in a schedule.

Mr. Serjeant Hide desired to have a copie of the particulars laied to his charge. And desired but the justice of the Howse without all manner of favour.

Then upon Mr. Hollis motion a Committee was appointed to examine this busines, viz., Mr. Hollis Sir Walter Earle and others etc., to meete this afternoone at 2 of the clocke in the Checquer Court.

And upon Sir John Culpeppers motion Mr. Georges busines was referred to the same committee alsoe.[8]

It was mooved that severall persons weere in the Serjeants custodie and not heere called to bee heard: next Wednesday was appointed for ther punishment or baile.

Sir John Clatworthie mooved diveers particulars against the Deputy or Leiftenant of Ireland, which weere new of his stopping the ports and hindring men from seeking iustice with other particulars.

Mr. Maynard made reporte that for reasons to bee preferred to the

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Mr. Glyn, They may grant a Habeas Corpus in the vacation returnable next Terme." Peyton, f. 31.

[4] A clue as to how D'Ewes took notes.

[5] *I.e.*, "The Book of Recreation on the Lord's Day" or "The Declaration of Sports."

[6] In August, 1640, after the King had declared the Scots rebels, a prayer was published to be said in all the churches for the King, in his expedition against the rebels of Scotland. *Cf.* Whitelocke, *Memorials,* I, 102. "Mr. Wilson refused to read the prayer against the Scotts, for that Noe man should read an arbitrary prayer in the Churche butt what is enacted by Parliament to bee soe read." Peyton, f. 31.

[7] I cannot find the homily to which D'Ewes refers.

[8] *Cf.* C.J. II, 39, and Northcote, 14-15. Evidently there was some effort to name a member on this committee who was not present, for both Northcote and Peyton (f. 31) mention objection to such a proceeding "because hee heares nott the debate of the businesse." Peyton, f. 31. *Cf.* App. B, p. 545.

Lordes to perswade them to admitt of some of this Howse to bee present at the examination of the witnesses to bee examined against the Lorde Leiftenant, viz.[9]

f. 32a] Mr. Sollicitor seconded Mr. Maynard and shewed further reasons[10] [*blank*] and concluded that hee doubted not but that the motion would take effect it was soe reasonable.

Then was a Committee appointed of 60 that weere to meete with a Committee of 30 of the Lordes, in the painted chamber ther to have a free conference, of which divers weere before in other Committees about the same busines etc. of which I was one[11] etc.

Then divers members rann out to gett roome at the Conference, before wee had sent a message to the Lordes to let them know that wee weere readie for the conference. And they weere sent for by the Serjeant and the Mace, and some of them came backe.[12]

And then was the Committee of 60 named and read, etc.

And then Sir Thomas Roe was named to bee sent upp with the message to the Lorde[s].[13]

Then was the order read what this great Committee of 60 should doe.

Mr. Hamden and Sir Thomas Roe weere both named to goe with the message; but Mr. Hamden desired to bee excused and soe Sir Thomas Roe went: and because ther was a report to bee made by Sir John Hotham of the great Northren busines most weere desired to stay: and soe some few went, and I staied.

But Sir John Hotham desired to bee excused till the members of the Howse weere returned.

Then weere 2 peticions severall not filed together preferred by Sir John Clatworthie from the knights citizens and Burgesses of Parliament in Ireland to either of which about 200 hands weere subscribed ther names; one directed to this Howse with desire wee would preferre a Remonstrance sent with the petition to his Majestie and the other was inscribed to his Majestie.

Then weere the parties[14] that brought this peticion and remonstrance called in, and did iustifie that they had received them from the Howse of

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[9] "That Preparatorie examinations agrees with all cases of Capitall crimes ect., at the common Lawe; and from the constant course of Inferiour courtes of Justice of Common Lawe, wee desire these demands of ours to examine witnesses before the Lords. And Presidents neede nott on our parte; but relying on the constant course of the Common Lawe, They must bring Presidents that deny it, to show the practise to the contrarie." Peyton, f. 31. *Cf.* Northcote, 15, and App. B, p. 545.

[10] "The Common Lawe goes upon Preparatorie examinations because the Judges will know what witnesses are for the king and what against him." Peyton, f. 31.

[11] For list of members see C.J. II, 39.

[12] D'Ewes adds in cipher: "*cum pudore.* None to speake when the mace is gone."

[13] Message reported. L.J. IV, 101.

[14] The men who presented this petition were John Bellewe and Ol. Castle. C.J. II, 39.

Commons: but that the Remonstrance had been kept backe by the Clarke.[15]

They saied they received it from the Committee that should have brought it over they weere themselves members of the Howse of Commons and have subscribed ther owne names to it. They say the number of the Howse of Commons ther is but 250 at the most: and soe the greatest number by farr have subscribed ther names. They should have brought other particulars, but the Clarke by the Deputies Commandement.

And an order was read that had the date in the margent ii^{ndo} Nov. 1640 which had been made in the Howse of Commons in Ireland for the saied Committee to have come over and have prosecuted the same peticion now preferred a Remonstrance should [*blank*]

Then was the other peticion read directed to the King by the same persons and subscribed by manye of the saied knights citizens and Burgesses in the Parliament now assembled in Ireland: which was in parte read.

f. 33a] At the great Conference between 30 of the Lords and 60 of the Howse of Commons in the painted chamber.

Lord Keeper. The Lordes are readie to examine our members when wee desire.

For this time and for this occasion the Lords shall bee examined alsoe upon oath, and the assistants alsoe if it bee desired. It shall bee done with all speed.

Touching our desire to have some of our members present at the examination for this the Lordes desire a free conference.

Mr. Mainard moved that in all capitall causes the accusers are to have witnesses examined before the triall come, that nothing may bee done impertinentlie.

Wee conceive your Lordships will goe the same way as is used at Common law in other capitall causes.

The Lord Keeper answeared that hee did agree that the use at Common law was as had been shewed. But the Lordes have made an order to examine as well for the partie accused and for the partie accusing soe this order should bee broaken by this motion.

Mr. Pymme shewed the great necessitie of some members of the howse of Commons to bee present.

Mr. Palmer[16] shewed wee

The Lord privie Seale demanded if wee had anie President.

Mr. Maynard acknowledged the Presidents needed not: for wee went according to the course of Common law: and ther ther are deposicions taken before the triall; which are of some necessitie if the witnesses die; and of use at the triall if they live.

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[15] For the text of this remonstrance see Rushworth, VIII, 11-14.

[16] Geoffrey Palmer, of course, the Palmer whose notes for November and December, 1640, are cited so often here.

Lord Keeper shewed that after a capitall crime once brought to the barre in Parliament noe preparative proofes.

Mr. Maynard added as before that wee did not intend to bind ther Lordships by those examinations, etc.

The Lord Keeper saied the depositions taken by Justices of peace ought not to bee published or copies given: and therfore not in this case.

Mr. Maynard replied that wee did not now dispute what use to make of the depositions, but onlie to crave they might bee taken.

Whilest wee weere absent peticions about one Mr. Waller a wronged minister about the not observing the new devices.[17]

f. 34a] And Mr. Burton and Mr. Prynne came into the Howse[18] in our absence and after ther appearing they weere directed to bring in ther peticions to morrow.[19]

Then it was suggested that ther weere divers Idolls at Durham of God the Father God the Son and God the Holy Ghost.

It was debated pro and con, whether those Images should bee sent for or not. I tolde them what Espæncans[20] and other papists saied at a meeting in France, etc. I desired they might bee sent for or I could never beleeve, etc., and soe the Howse agreed to it. Yet the order was not read.[21]

Sir John Hotham reported that the Lordes weere of opinion that Sir William Udall should receive the whole 50,000£, which was agitated yesterday morning etc., and soe it was resolved upon question.

And then an order made viz. Resolved that Sir William Udall by order of the Howse receive 50,000£, etc. (of which 25,000£ was to bee paied by Mr. Harrison and 25,000£. by the cittie of London.) And then an order was added touching the fees hee should take for carrying it.

Sir Walter Earle mooved that Sir George Ratclyffe was come to towne and had escaped the messenger sent for him; and therfore order was taken that hee should bee speedilie sent for, by a messenger to this Howse.

An order made and to bee sent to the Leiftenant of the Tower that hee should not come to speake with the Earle of Strafforde in the Tower or to send any letter to him: because ther is an information against him preferred by this House for high treason.[22]

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[17] This was a petition of George Walker, not Waller. The contents are given at length in *Cal. St. P. Dom. 1640-1641*, 277-278.

[18] Burton's and Prynne's return to London (Nov. 28) was in the nature of a triumphal procession. It is very widely mentioned. See, *e.g.*, *Baillie*, I, 277; Townshend's *Diary* (*Worc. Hist. Soc.*, 1915), 10; Clarendon, I, 264-269; *Letters of Lady Brilliana Harley* (*Camden Soc.*, 1854), 104; *Fleming MSS.* (*Hist. MSS. Comn.*, XII, Pt. vii), 18; Pyne and Woodford MSS., *Hist. MSS. Comn.*, IX, Pt. ii, 499.

[19] According to Northcote (16) and the *Journals* (II, 40) they were given till Wednesday.

[20] Possibly Claude d'Espence, a French theologian of the sixteenth century.

[21] The question was deferred. C.J. II, 40. The cathedral at Durham was the seat of the trouble in regard to Dr. Cosin and Peter Smart, and the question of popish innovations there was being constantly raised.

Mr. Treasurour reported that hee had spoaken to the Lorde Generall to send downe all the Commanders and under officers that lay about the towne and it was soe ordered by the Lorde Generall.

The mocion was then renewed againe for the same Lorde Generall to bee sent unto to remove the Popish Commanders and under officers in the armies and in the garrisons, etc.[23]

Mr. Treasurour shewed the garrisons weere whollie at the Kings disposall and not in the Lorde Generalls power.

Sir Thomas Roe made a moderate speech to shew that other forraigne Princes have admitted papists, etc.

Sir Henry Mildmay moved that lawes weere heere against recusants that they should not command nor beare armes, etc. And lett us forbeare to break our owne lawes.

Then divers others spake pro and con. And I wisht at last that wee might either shortelie end it or deferr it to another time. I shewed three particulars that seemed to bee dissonant, etc. 1, That I tooke it to bee the sence of the Howse that for those etc., in garrison townes wee weere to move his Majestie. 2, Some conceive the papists etc., are to bee instantlie removed, others thought that could not bee without danger: for this wee onlie desire the Lorde Generall to remove them in such convenient time as ther may neither danger accrue to the armie, nor the desire of this Howse bee frustrated. And 3dly for other Princes employing Protestant Commanders, etc.

Then a question putt to that purpose etc., and the I's carried it wee should send without a noe.

And the messenger desired by the Howse to doe both this message to the Lorde Generall, and the other message to the King about the garrison commanders and other officers etc., and protestant[s] putt in ther roomes, etc. This alsoe resolved upon question.

f. 35a] Sir John Hotham made a further report of the Earle of Crafords regiment and the reformados of the armie are an unnecessarie charge.

Then it was putt upon the question that the King should bee mooved in this in the name of the Howse by Mr. Treasurour alsoe.

And 2dly it was resolved upon the question that these troupes being casthiered should bee paied till the 8 day of the next moneth from the tenth day of this instant November.[24]

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[22] "Sir Walter Earle. That Sir Geo. Radcliff be restrained from going to the Tower. "Mr. Speaker hearing of it had granted warrant for his apprehension, and ordered that Lieutenant of Tower, that he may not himself, nor by interchange of letters, have access to Lord Lieutenant, being sent for upon information of high treason." Northcote, 17. *Cf.* C.J. II, 40.

[23] "To remove all commanders and other officers in the army in the North, which are Papists, or justly suspected to be Popish; and to put Protestant commanders and officers in their places." C.J. II, 40.

Then Sir John Hotham reported further that the Committee was of opinion that the Lorde Generall should bee moved to make a new muster and role, and to pay heereafter by that Role.

This alsoe voted upon the question. And ordered and Mr. Treasurour was entreated alsoe to move the Lord Generall in this.

Then it was put to the Question whether 30,000£ should goe to the Kings armie and 20,000£ to the Northern Counties etc., and resolved it should bee soe.

Then was the order read by which these questions weere sett downe and framed into one bodie as the resolution of the Howse.

December 1. Tuesday. 1640.

Mr. Owen saied that the person priviledged was his meniall servant (which Mr. Pymm moved against him yesterday morning) and yet for this time hee was contented to waive the saied priviledg[e].

An act for the reformation of divers abuses in Ecclesiasticall Courts read the first time.

Then the Speaker as in like cases repeated the heads and substance of the Act.

An act that the Countie Palatine of Durham shall have knights citizens and Burgesses to serve in the Howse of Commons.[1]

This was the first reading, and an act formerlie read to this purpose with the same title was mistaken.

f. 36a] A motion was made by Sir Nevill Pole that the two ministers[2] that preached on Sunday last at the Sacrament might bee thanked for ther paines and desired to print ther sermons which was agreed unto by the Howse.

Then followed divers other motions of noe great moment.

A committee to consider how farr a sheriffe might bee of the Howse and
f. 35b] how farr not. Mr. Selden, my selfe Mr. Hollis, Sir Thomas Withrington, Mr. Glynne, Mr. Maynard, Sir Edward Hungerford, Sir Simonds D'Ewes, Mr. Palmer, Sir Edward Montford, Mr. Perd, Sir
f. 36a] Thomas Bowyer, Mr. Lane,[3] Mr. Saint John, Mr. Cage, to meete in the Checquer chamber at two of the clocke—betweene Mr. Hobbie and Mr. Burlacie.

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[24] *Cf.* Northcote, 18.

[1] See the discussion of this later, on Jan. 1, 1641.

[2] Gawdy and Morley. C.J. II, 40.

[3] These names (beginning with Mr. Hollis) are inserted by D'Ewes on the page opposite. The committee was evidently to take into consideration the disputed election at Marlow Magna. "The case of Mr Hobbie moved who was chosen Burgess of Marlowe in County Buck but before his election had a patent or commission to bee

Mr. Glynne made reporte touching recusants[4] shewed that many preists had been condemned and delivered some by warrant from the privie Counsell and some by command or warrant from Secretarie Windebank. And then threescore and odd letters of grace.[5] Ther are 11,000 papists protected by being her Majesties servants.[6] His Majesties warrants doe all take care to send them beyond the sea. Onlie one for one Mosse a Jesuite of whome his Majesties warrant was suggested that hee was but indicted when hee was condemned.[7] To all the warrants from the Counsell are two Archbishops handes, and to one only but one.[8]

29 under Secretarie Windebankes hande. One preist committed by the Kings signe manuall; and yet discharged by Secretarie Windebanke without anie signification of the Kings pleasure.[9] And soe hee put many other examples of the discharge of others.

And to some Secretarie Windebanke gave letters of protection that none should molest them.[10]

And divers that weere diligent in the discoverie of preists weere discouraged and threatned by Secretarie Windebanke.

A preist being apprehended by Secretarie Cokes warrant and brought to Whitehall; but hee was discharged by Mr. Secretarie Windebanke.

A peticion was preferred by Robert Ferrand[11] and 4 other preists being indicted of Treason peticioned to bee received, as his Majesties loiall subjects; and soe they weere vise[?] Secretarie Windebanke.

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shreive of Berkshire delivered to him. But the writt of discharge was not delivered. A committee to consider off this case." Palmer, f. 82.

[4] This committee report is given at length by Peyton, Palmer, and Northcote, but the best account is to be found in the easily accessible *Journals* (II, 41). D'Ewes failed to get the first of the report, for which see the *Journals*. See also Richard Johnson to Robert Read, Dec. 1, *Cal. St. P. Dom. 1640-1641*, 291-292; Dade to Read, Dec. 2, *ibid.*, 294.

[5] 74 letters of grace. Peyton, f. 32; Palmer, f. 83; Northcote, 19; C.J. II, 41. But later in the report it is put at 64. C.J. II, 41. *Cf.* May, *History of the Parliament of England* (1812), 56-57.

[6] "Eleven houses protected by being her Majesty's servants." Northcote, 19. From a comparison with other statements in Peyton and the *Journals*, it seems probable that Northcote, and not D'Ewes, is right here.

[7] "All the warrants under the Kings handes have a clause upon all discharge that they shall departe the kingdom, onelie one upon misinformation that hee was indicted not convicted when hee was convicted." Palmer, f. 82.

[8] This statement agrees with that in Peyton (f. 32), "To these warrants of Releasements and discharges from the Counsell were the hands of two Archibishops to every one butt one: and to that the hand only of one Archbishop." Northcote (19) says, "Another warrant under two Archbishops' hands with Lords' commission." *Cf.* Palmer.

[9] "One Carrell a secular priest" (C.J. II, 41) "discharged by verbal warrant of Secretary Windebank to keeper of Clink." Northcote, 19. *Cf.* Peyton.

[10] A note was given to one Smith, a "priest called Gunpowder Smith" (C.J. II, 41) "that none should molest him." Northcote, 20. "Mr. Reade, the Secretaries Secretary, wrote to these priests [*i.e.*, those discharged] to paie Fees, itt may bee meanes to keepe you from further trouble hereafter." Palmer, f. 82.

[11] George Parrett, C.J. II, 41.

Not one of those 74 letters of Grace entred in the Signet office.[12] And since Secretarie Cokes going out[13] the Preists and Jesuites have reference to the Secretaries [house] as the irone to the loadstone.

And the papists doe generallie flocke to Denmarke howse[14] with as much boldnes as anie protestants doe to the Church.

Ther are 19 Peeres of this realme and two Countesses papists[15] that ther weere never yet convicted.

And for convicted recusants thorough England which have been searched into, and most are meane men, and few of anie note.[16]

Now when Secretarie Windebanke forbadd men to bee proceeded withall to iudgment after conviction of Treason this the King himselfe cannot by law doe, though hee may pardon traytors condemned.

Then was ther a long dispute and altercation about one John Rushfords[17] noteing in characters that was the Clarkes assistance; but hee had delivered out noe copies of anie thing.

In this I spake touching the ancient Journalls in Queen Elizabeths time,[18] and that for the members of this Howse everie man might take what hee would: which was the old use.

And this referred to the Committee that was to examine the Clarkes booke each Saturday night, etc., and I was added to the Committee.

f. 37a] One[19] of these letters of grace send to the Sheriffe of Sussex was read which was to forbeare the seizure of Recusants lands and to restore what hee had seized, and to give them notice to come and compound at London.

From the Court at Whitehall
9 of Oct. 1639.

Y[ou]r verie loving freind
Francis Windebanke.

To Sir John Bankes knight our Attourney generall and his successors. Charles R.

Suggesting that the King at the instance of the Queene Mother did dispence with Sir Henry Bedingfeild[20] and his familie and soe as it might not bee scandalous to his government, etc.[21]

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[12] Although "most of them [were] under the signet, Those should bee entred in the signet office but not one entered." Palmer, f. 83. "That whereas all Acts that passe under the Signett are entred into the Signett Office, none of the discharges under the Signett are there found." Peyton, f. 32.

[13] Sir John Coke gave place to Sir Harry Vane in February, 1640. "The witnesses affirmed the secretaries howse to bee the protection of recusants, they resort thither naturallie." Palmer, f. 83.

[14] Denmark House was one of the jointure houses of Henrietta Maria.

[15] *Cf.* Palmer, f. 83; Northcote, 20; Peyton, f. 33.

[16] Palmer (f. 83) adds: "An exact note brought by Fulthorpe of convict recusants for 14 yeares. But they are poore, fewe noblemen or gentlemen of qualitie." Peyton (f. 33) says: "They found only some servants and labourers, and nott a gentleman of quality through the kingdome."

[17] John Rushworth, assistant clerk, and later editor of the *Historical Collections,* who was already looking to his future work.

[18] D'Ewes had long been at work on the *Journals of all the Parliaments during . . . Elizabeth.*

[19] D'Ewes resumes Glynn's report.

Then was a peticion read of the parishioners of St. Giles to the Lords of the Counsell against the encrease of poperie, etc. All these particular originalls or copies weere delivered in by Mr. Glynne.[22]

Since 3°. Caroli the King hath received little above 4,000£ of recusants in the ordinarie way of law by the levies of Sheriffs upon the Statutes.[23]

MR. PYMM and SIR RALF HOPTON moved some course might bee taken to suppresse the growth of poperie, to which purpose SIR ROBERT HARLOW spake alsoe.

SIR JOHN CULPEPPER Nuntio, etc.[24]

1. A charge against Secretarie Windebanke.
2. An humble remonstrance to the King about the growing of poperie.
3. That an act may bee drawen against the growth of poperie.
4. That the Committee enquire what the person is that is called the Popes nuntio; and what authoritie hee hath.[25]

To the first SIR JOHN CLATWORTHIE and MR. SAINT JOHN moved that before any charge weere sent upp against Secretarie Windebanke, hee being a member heere might first bee called to answeare heere, and too morrow morning was appointed; and it was desired that interrogatories might bee prepared against too morrow. But before anie order was made a message came from the Lords.

The message was sent by Sir Thomas Treaver one of the Barons of the Exchecquer and Sir Robert Barkley one of the Justices of the Kings bench.

The Lordes doe desire a present conference concerning the matter of the free conference yesterday with the same Committees as yesterday in the painted chamber.[26]

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[20] Bedingfield and his family had been granted letters of grace by the King. See *Cal. St. P. Dom. 1639*, 427-428.

[21] A very elaborate account of Windebank's favor to the Jesuits may be found in Prynne's *The Popish Royall Favourite* (1643). For two letters of grace see *idem*, 5, 13-14.

[22] See C.J. II, 41. Peyton (f. 32) gives much the same account of this as C.J. but makes the petition aver that three priests "converted 21 persons." *Cf.* Northcote, 20. Palmer (f. 82) makes the petition name as one of the priests Southwicke instead of Southworth, as in C.J. But see *Cal. St. P. Dom. 1640-1641*, 294.

[23] This is the end of Glynn's report. The *Journals* give the amount received from recusants as 4080£; Palmer gives it as 4084£; Peyton as 4083£, and Northcote as the same.

[24] *Cf.* C.J. II, 42.

[25] "Ordered That the Committee should prepare a charge to present to the Lords against Secretary Windibank: And to draw a Remonstrance to present to his Majestie concerning the Queen's mediation for Recusants. And to frame an Act against Papists: And to know what Armes have beene sold to Recusants of late. And to take into examination the Condition of him they call the Popes Nuncio: And to view my Lord of Worcester's Commission of levying of men." Peyton, f. 33. *Cf.* Northcote, 21.

It was possibly before this committee that Robert Read offered defense of his master, Windebank. See *Cal. St. P. Dom. 1640-1641*, 297-298. But more probably the notes given in the *Calendars* (and wrongly dated) were notes of a speech that was never delivered.

Much debate about the meaning of the message, but resolved wee should presentlie attend them.

f. 38a] At our conference touching the free conference in the painted chamber begunn about halfe an howre after eleven of the clocke ther was a shorte stay.

The Lorde Keeper told us that ther Lordships had considered of the reasons pressed yesterday and especiallie being desirous to shew all respect to the Howse of Commons and to keepe all correspondencie with them had made an order, which order that hee might not mistake hee would read it.

That such of the Howse of Commons as they shall thought fitt shall alwaies bee present, at the preparatorie examination of the Earle of Straforde as this Howse shall thinke fitt.[27]

Then upon our returne the same particulars touching Horwood[28] Secretarie Windebanke and preparation of an act to bee drawen upp against Recusants is to bee referred to the Committee for Recusants.

Ordered.

It was ordered that the busines touching the pretended Popes Nuntio and the Remonstrance to bee drawen upp about recusants should bee referred to the Committee of fowre and twentie, which was a select Committee selected out of the Committee of Religion, and ther divers added to it viz, etc.[29]

Mr. Pymme reported first what was done this day at our conference in the painted chamber, etc., *prout supra*.[30]

Then Mr. Maynard reported the substance of the Conference yesterday with them in the painted chamber.[31]

Gett this report of Mr. Maynard.

Then it was appointed that the Committee that had prepared the charge against the Earle of Strafford should bee present at his preparatorie examinations of the same Earle, and minister such interrogatories as should bee thought necessarie, and that they should not divulge those examinations till the whole busines should bee done. And then to present the whole busines to this Howse.

And this was ordered.

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[26] L.J. IV, 101.

[27] The House of Commons had been unable to produce any satisfactory precedents for the right to be present at the preparatory examination, and hence had pressed the usage of criminal cases in common law.

[28] "Robert Horwood was called in; and produced a letter sent unto him, under Secretary Windebank's Hand; which was read; enjoining him to surcease any further prosecution of the law against recusants." C.J. II, 42.

[29] For added members see C.J. II, 42.

[30] For Pym's report see *idem*.

[31] Maynard's report is the last item given for Tuesday. *Ibid.*

Then it was further ordered that a message should bee sent to the Lords that wee would present divers witnesses and divers questions wee desire them to bee examined upon, and that as many of them as could should bee examined too morrow.

Mr. Pymme was to carrie upp this message.[32]

It was ordered therupon.

Then followed after twelve many new motions about new dayes to bee appointed about the Canons arguing and shipp-monie.[33]

Then it was debated what should bee done to bring Sir George Ratcliffe to appeare (involved in the Lord Leiftenants busines.) and it was ordered that if hee did not come in on Thursday morning next, then a message should bee sent to the Lords to desire a proclamation against him to bring him in.[34]

f. 39a] December 2. Wednesday. 1640.

Richard Chambers peticion[1] preferred against the Customers in 1628, was againe read this morning in the Howse: touching Tonnage and Pondage taken out of divers of his goods by the saied customers against law. 2dly that being sent for before the Lordes of the Councell for saying the marchants weere moore wrung and scrued heere then in other partes of Christendome, they sent him to prison without suffering him to explaine himselfe.[2] 3, That hee was long imprisoned before hee could gett a Habeas corpus. 4, After the Habeas corpus was allowed him for a time hee was againe upon Mr. Attorneyes motion, committed againe to the Fleete. 5, That a bill was preferred against him in the starre chamber upon the saied wordes hee had spoaken at Counsell Table.[3] 6, That Mr. Acton being then sheriffe hindered him from a Replevin.

Then followed another peticion of the same Richard Chambers by which hee shewed the wrongs offered him since the peticion in 1628. Hee was 9 May, 1639, censured most greivouslie in the Starre-chamber and hee [was] committed to prison to the Fleet. Then to pay for his fine sett in the Starre-chamber his goods and merchandize to the value of near 7000£ weere solde and destroied to his utter undoing. And that first and last hee suffered 6 yeares imprisonment, his losse hath been 10,000£ and himselfe wife and 10 children weere neare utterlie undone. That hee preferred a bill in the exchecquer in 1629 to trie whether Tonnage and Pondage weere due without a statute. But hee hath been delaied eleven yeares and kept from anie iudgment to this present yeare 1640 with divers other great and greivous wrongs and oppressions; and imprisonment alsoe for not paying of shipp-monie. Each peticion was subscribed with his name and oath, written in one paper.

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[32] The *Journals* (II, 42) say: "Sir W. Erle went up with this message," but D'Ewes tells us later (f. 40) that Mr Pym desired to be excused so Erle was sent.

[33] The Committee for the Ship Money to meet today at 3 p.m. C.J. II, 42.

[34] For the minutes of the Subcommittee of Religion on the afternoon of Dec. 1, see *Proceedings in Kent, 1640,* 83-85.

[1] For Richard Chamber's case see Rushworth, I, 670-679; *State Trials,* III, 374-383; N. and R., using index.

[2] His principal offense was his statement "That the merchants are in no part of the world so screwed and wrung as in England; That in Turkey they have more encouragement."

[3] The words, "Hee was afterwards ther heavilie censured" crossed out in the MS.

Mr. Vassall, one of the Burgesses of the cittie of London, shewed his greivances and oppressions for Tonnage Pondage and shipp monie weere not much inferior to Mr. Chambers, that hee had suffered much uniust imprisonment, and had been damnified divers thousand pounds. That hee was denied iustice in severall Courts. In seven yeares hee was 16 times committed, with divers other losses wrongs and oppressions to the losse of above 10,000£.[4]

Whilest Mr. Vassall was speaking Sir Hugh Cholmeley would have interrupted him because other busines was appointed: but the Howse overruled it hee should make an end and soe hee did.

Then upon Mr. Hollis and Sir Walter Earles motion a particular committee was appointed to consider of Mr. Chambers and Mr. Vassalls greivances: and of Mr. Rolls his busines alsoe: who had suffered as well as others:[5] viz. Sir Walter Earle, Mr. Hollis, etc.

Ordered to meete etc., in the checquer chamber on Friday next at two of the clocke, in the afternoone.

Then was an order read made at the Court of Aldermen, that 25,000£ readie brought into the chamber of London should bee paied to Sir William Udall according to the direction of this Howse without any further securitie: and onlie desire that according to the former order of this Howse they may first receive the monies they lend upon the saied act out of the monie that shall bee first paied in and the cittie desired an order of this Court that they should paied it in unto the saied Sir William Udall.

Sir William Morley[6]

Then was an order read that the cittie should pay the first 25,000£ to Sir William Udall.[7]

f. 40a] A message sent upp to the Lordes by Sir Walter Earle according as had been ordered yesterday Mr. Pymme desiring to bee excused.

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[4] Northcote (24) says of Mr. Vassall, "Sixteen times committed. 5000£ damage. Loss of his trade, 10,000£ more. His credit impaired. Total 20,000£." Vassall had refused to pay the imposition on currants, and when told by the Court of Exchequer that he must, declared that he would have nothing to do with the currants under such circumstances. He was committed to custody for contempt of court, and in the end was forced to pay. Gardiner, VII, 167-168.

[5] For John Rolles's case see Gardiner, VII, 5, 32-33, 58, 64; N. and R., using index.

[6] He was given leave from town for ten days on account of illness. Peyton, f. 33.

[7] The City was to be paid 25,000£ first out of the 100,000£ raised by Act of Parliament, and Harrison was to receive the next 25,000£. C.J. II, 43.

That the Howse is readie by a Committee to present divers witnesses to bee examined against the Earle of Strafford and such questions as they shall desire them to bee examined upon and soe desire that those witnesses soe propounded by the Committee may bee all examined one after another with speed and secrecie.

After the message delivered wee staied long for an answeare and at last The Lorde Keeper told us; the Lordes weere now in a verie great debate and that they would in convenient time send an answeare by a messenger of his owne.

A peticion[8] read which was preferred by the freeholders of Warwickshire against George Warner, sheriffe of the same Countie, etc. 1, That hee adiourned the Court to severall places. 2, That hee at first denied the Pole. 3, That having begunn it hee brake it offe and pronounced Mr. Combes and the Lord Compton knight; wheereas Mr. Purferey was dulie elected.

The saied sheriffe after the peticion read was called in and having kneeled was bidden to stand upp: and made slender answeares to all these criminations: and confessed hee denied the Pole.

Mr. Combes, who was one of the knights returned for Warwickshire, saied the saied sheriffe tolde him hee would returne him and the Lord Compton and would not goe to the Pole for Mr. Purferey, because hee was choosen Burges of Warwick. And that hee then tolde him hee should then doe much wrong, for hee thought Mr. Purferey had three voices to one.

Then it was long disputed whether hee should bee fined or it should bee referred to the Committee: to examine first; but because hee had himselfe confessed that hee had denied the Pole.

Then the Question was putt, whether hee the saied Mr. Warner should bee sent to the Tower. And the I's weere tenn to one.

Yet the no'es making some question, I mooved that the question might bee putt againe, and soe it was. And then the I's appeared to be moore.

f. 41a] Then followed a long dispute about putting the 2d question for his fining to which I spake and shewed the first question being putt it might call the Justice and wisedome of the Howse not to put the 2d and 3d question. Besides a sheriffe upon Record in H. 4 time before the statute de a°. 23°. H. 6, in which a Sheriffe[9]

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[8] Before the complaint about Warner the case of Richard Holford, a deputy lieutenant of Leicestershire, was taken up (Northcote, 25). On Nov. 7 a petition from Leicestershire freeholders had been received against him (see above, p. 3), and he had been sent for as a delinquent (C.J. II, 21). It seems that he had said that Sir Arthur Hesilrigge "since he was chosen Knight of the said County was but a flash" (Townshend's *Diary, Worc. Hist. Soc.*, 1915, p. 19), that the County "had chosen a man for the knight of the shire, who had more will than wit" (Rushworth, IV, 38). Holford was now called in, and seemed still of much the same opinion about Sir Arthur (Northcote, 25). Lord Gray said that the accused was "no gentleman, that in the memory of divers he kept hogs" (*ibid.*). Hesilrigge explained that he had not moved the petition nor did he expect reparation. Holford was sent to the Tower, but on Dec. 10 made his submission and was discharged (see below, pp. 110, 133). See D'Ewes's allusion to the case in a letter to his wife, Dec. 14. *Letters of Eminent Literary Men* (*Camden Soc.*, 1843), 167-168.

Then after a little further dispute: hee was fined upon Question an 100£. Then was the 3d question resolved that hee should make his submission in this Howse and in the Countie at the Assises.

And Mr. Lentall the speaker moved that at Glocester[10]

Then was Mr. Warner called in and kneeling all the time the Speaker pronounced the iudgment of the Howse against him, first that hee should bee committed to the Tower during the pleasure of this Howse, etc.

Then it was moved how Mr. Purferey should have his right, and after much adoe I told them what was done upon Recorde, that I thought Mr. Combes his Election was good, that my Lord Comptons was void and that Mr. Purferey ought to bee returned without a new Election.

After which followed a long and unnecessarie dispute about Mr. Combes election whether cleare or not. And the second matter in question was whether this should bee referred

Then the question was whether wee should have two questions whether the election of Warwicke for knights of the sheere weere void or not: and it was overruled for two questions.

Resolved first that Mr. Combes election was void.

Resolved upon the 2d question that the Lord Comptons election was void. And then ordered that a new writt should goe to the sheriffe of Wa[rwick].

Ordered upon reporte of Sir Robert Harlow from the Grand Committee of trade, that the peticion preferred by the gold wyer drawers against the refiners before the Committee of Greivances should bee referred to the Committee of trade.

Post meridiem[11]

At the Committee for the Court of the Constable and Marshall, etc.: wee mett about 3 of the clocke. I first veiwed a copie of the Rot. Parl. de a°. 19° Jac. Regis pte. 13°. n°. 5°, Letters Patents of King James bearing date Aug. 29, a°. 19°. of his raigne by which hee created Thomas Earle of Arundell and Surrie Earle Marshall of England during his life, *una cum omnibus et singulis suis officiis commoditatibus emolumentis preheminentiis occasionibus et aliis suis pertinentiis quibuscumque tam in curiis nostris quam in omnibus aliis eidem officio comitis Mareschalli Anglia qualitercunque spectantibus, sine de iure ab antiquo pertinentibus*

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[9] 23. H. 6. Cap. XIV, *Stat. of the Realm,* II, 340-342. There is a provision in this statute that every sheriff making an undue return should pay a fine of 100£.

[10] Lenthall had been nominated for Gloucester but the poll was denied and Thomas Pury and Henry Brett returned. The matter was referred to the Committee of Privileges. Northcote, 26 n; C.J. II, 43.

[11] The subcommittee for the condition of both universities in matters of religion met on this afternoon. For its authorization (Nov. 28) and membership see Townshend's *Diary* (*Worc. Hist. Soc.,* 1915), 16.

f. 42a] *etc. cun tam amplis modo potestate iurisdictione et authoritate prout Thomas nuper Dux Norf. avus predicti Thome Comitis Arundel et Surr. aut Thomas quondam Dux Norf. avus predicti Thome nuper Ducis Norf. aut Johannes Movbray nuper Dux Norf. vel aliquis alius comes Mareschallus Angliae ante haec tempora etc.*

After this I veiwed other letters patents (some businesses of little moment being then in agitacion) which letters patents weere as followeth: Rot. Pat. de a°. 15°. Jac. Regis pte. 11ma. These Letters Patents weere in English bearing date the 7th day of Febr[uary] at Westminster a°. 15°. Jac. by which the ordering and disposing of the Earle Marshalls office was committed to Thomas Earle of Suff[olk] Treasurour etc. Lodowick Duke of Lenox Lord Steward etc. George Marquesse of Buckingham Master of the horse Charles Earle of Nottingham Lorde high Admirall of England William Earle of Pembroke Lorde Chamberlaine of the Kings household and Thomas Earle of Arundel etc. or anie three or moore of them to call before them the Kings of Armes Heralds and others and to know what armes they had of late granted without good warrant by the law of armes, and to revoke and disanull all such as shall bee unworthilie or unlawfullie assigned, and to consider of such good ordinances as have been formerlie made by Earle Marshalls and Constables, for the limitation of the power of all heralds and limitation of them and for ther orderlie visitacions and in what order everie [one] of them shall behave themselves in the exercize of ther severall offices, etc. And for them or anie three of them to place in such officers of armes in the places of them that then weere or at anye time after weere void till an Earle Marshall weere appointed.

Thomas Bowton dwelling in Kent was peticioned agai[n]st by Sir John Ryvers: The charge in his peticion preferred to the Earle Marshall was that the saied Bowton when the same Sir John hunted on his lands saied hee would cutt offe his dogs leggs; and that hee might perhaps proove himselfe as good a gentleman as the other. For this and some other speeches the saied Sir John Ryvers complaining privatelie to the Earle Marshall the saied Bowton was sent for by a messenger, laied hold on and brought upp to London and committed to prison (no libell at all being putt in against him in the Earle Marshalls court) and was enforced before hee could gett out of prison, to give securitie by a bonde of an 100£ penaltie to appeare againe whensoever hee should be called for. Divers of the Committee spake to this matter.

Mr. Selden spake against this proceeding and shewed it to bee most violent uniust and against the Common law of England.[12]

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[12] D'Ewes has crossed out the following words: "I moved in effect following—That by the proceedings whatsoever the free active subjects of England enjoined either by the common law or the Great Charter of Liberties was overthrowen. For first heere is his libertie taken away and his bodie imprisoned without anie Processe depending

f. 43a] I spake.[13] I shewed that this course strucke at the three great rights of the subjects of England, of our lives libertie and estates. For first the saied messenger was sent to bring him upp as a prisoner, without anie limitation of the weather or his disposition of health: by this alsoe was his libertie taken away; and then being in duresse hee was forced to enter into the saied bond of an 100£ to appeare at any time within two dayes warning. First this is an arbitrarie indefinite and unlimited way of proceeding. For they might require a bond of 5,000£ and suppose the partie bee not at home when hee is sent for, suppose hee bee in Yorkeshire or in some other place yet his bonde is forfeited; and it is much harder proceeding then the verie court of Starre-chamber hath [done] in ther subpaenas which command defendants to appeare immediate, for ther a man hath libertie of soe many daies to come to that court as the place wheere hee is distant from it allowing to everie daies iournie 20 miles. And this proceeding is the moore strange, being it was done private by a chamber-proceeding and not in open Court. Others spake after mee in this cause, but wee resolved nothing in it at this time.

Thursday. December 3. 1640.

A peticion of Anthonie Thompson Doctor of Divinitie touching divers Fenns in Lincolnshire called Sutton Marsh; which weere taken in by drayners and hee was onlie deprived of parte of the Tithes.

And then a peticion was preferred by Mr. Deeram and the widow Margaret Kirbie but not read touching the taking away of the very inheritance from them of parte of the same Marsh.

And soe ther was a select committee appointed viz. Sir John Wray and neare 30 others and ordered to consider of the same peticions. And they weere appointed to meete in the Chancerie Court too morrow at two of the clocke.

The words *by a Committee of this Howse* altered *by some members of this howse* which was yesterday sent upp to the Lordes (which message I expresselie writt out).

Sir Francis Seimour made reporte touching Serjeant Hide. 1. That five yeares since hee did advize the schoole-master in Salisbury to catechize the schollers without expounding it. 2. For his opposing lectures hee onlie saied that the lecture on Friday hindered ther towne busines. 3. For the shipp-monie it appeared by his owne letter that hee forwarded shipp-monie and advized to gett it by violence. Serieant Hide advized that.

Sir Walter Earle moved that it was proved that mechanick mens chil-

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against him. Secondlie hee is forced to enter a bond by duresse, of which the condition as it may fall out is impossible for him to performe and soe hee must forfeit. And by these meanes the proprietie of his goods infringed. For hee is bound to appeare whensoever hee shall be summoned."

[13] In cipher.

dren should not bee brought upp in learning but this hee spake as MR. MAYNARD answeared upon the schoolemasters owne complaint that hee was troubled with 20 poore children.

MR. HOLLIS shewed that two charges weere against Serjeant Hide touching the schoolemaster: 1. that poore mens children ought not to bee educated in learning. 2. touching his reproving the schoolemaster it was plaine that hee told the schoolemaster, that hee ought not to expound the catechize. For the 2d charge it was fullie prooved, that hee saied that hee hoped ther would bee an order taken with lectures. It was true that Mr. Serjeant Hide gave xl s. to an ordinarie at a canonicall lecture, and saied that ther soules weere as well saved when ther was noe sermon but in the Cathedrall Church as well as since ther weere moore. 3. that he was a promoter of Shippmonie was plaine and this was done as appeares by his owne letter written in 1635 f. 44a] before ther was anie couler of iudgment for it. Then hee tolde a poore man whose howse had been broaken open and his goods taken away that hee was well enough served. 4. Hee threatned such as gave ther vote against his election for one of the citizens for Salisburie; and tolde them that they had spoaken against the State, because they had spoaken against Monopolies.

When Mr. Hollis begann one would interrupted him; but SIR WALTER EARLE stood upp, and saied that it was according to the orders of the Howse for any of a Committee to supplie what the reporter had omitted;[1] and the whole Howse almost assented to it.

SIR JOHN STRANGWAIES spake touching these matters and mitigated many things Mr. Hollis had delivered: and the LORDE FALKLAND (though young)[2] spake notablie for the defence of Serjeant Hide.

SIR JOHN HOTHAM spake notably against Serjeant Hide, and saied that if these matters weere fullie prooved against him, his voice should bee to turne him out of the Howse.

I moved to put it to the Question to put the matter out of Question, whether wee should lay aside this busines or noe; and soe it was putt to the question: and overruled that wee should speake noe moore of this busines at this time and overruled, upon Question.

Then MR. PERD and MR. MAYNARD moved for some further course to bee used for the speedie conviction of Recusants: and Mr. Maynard added that ther might bee an act drawen to convict them without anie further formall or legall conviction.[3]

And then an order was made to bee sent to all the Justices of peace of London and Middlesex, to take a course with the church-wardens and other officers to present the names of all the Recusants to bee speedilie proceeded against at the next sessions according to law notwithstanding any inhibition to the contrarie.

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[1] Peyton (f. 34) discusses this point of order at length.

[2] In cipher. Falkland was about thirty.

[3] *Cf.* Northcote, 26.

Then followed a long debate about Mr. Prinne[4] what securitie hee should give to him that brought him from the Castle of [*blank*][5] and the best advice and resolution, that hee should give securitie himselfe but this Howse should not intermeddle with it.

Richard Kilvert Dr. Cousens Sir Henry Spiller and other prisoners in the Serjeants custodie had libertie to goe upon baile. It was ordered.

Then ther came a message from the Lordes brought by Sir Edward Littleton and Justice [*blank*][6] That according to the desire of this Howse they had appointed certaine members of ther Howse to take the examinacion of the witnesses against the Earle of Strafford in the presence of such members of this Howse as this Howse shall appoint: And soe Mr. Pymme and some others of the Howse went away presentlie to the Lords Committee Chamber.

Mr. Henry Burton, prisoner in Castle Cornet in the Island of Garnsey, petitioned[7] that hee being questioned in the Starr-chamber, about certaine sermons printed and preached: that his answeare was mutilated and expunged by Sir John Bramston [*blank*] fined 5000£, deprived of his meanes, and ministeriall order, sett on the pillorie both his eares cutt offe and hee kept close prisoner 12 weekes in the Common goale; and was after sent by an extraiudiciall order to the Castle of Cornet in the Island of Garnesey in the winter time by sea and land; and his wife never suffered to come to him contrarie to the lawes of God and man; and penn inke and paper denied them.[8]

f. 45a] The petition of William Prinne, exile and prisoner,[9] who shewed that by the wicked practices of the now Archbishop of Canterburie and Dr. Helin hee hath been soe oppressed and cruellie handled as is almost without patterne or example.

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[4] "Mr Controller said: That Mr Prynne was brought by the Porter of the Castle at Jernesey a Prisoner hither: and desired that hee might now putt in baile here, That the Porter might returne back to his charge. Hee being governour, said, hee would take sufficient baile and give the house account to morrow morning.

"Mr. Pymme said, to bayle there was to sett them at liberty. Mr Controller might take good security of him to returne to Custody whensoever hee should bee commanded.

"Mr. Whistler said, The house could nott bayle; and desired them to consider, if ever they had walked in that way before." Peyton, f. 34.

[5] Mount Orgueil in Jersey.

[6] Berkeley. C.J. II, 44.

[7] For the petition see Rushworth, IV, 78-79.

[8] "Petition of Mr. Burton read: Hee desired Mr. Tomlins and Mr. Gurdon for Counsell, and to have copies of the Orders, Decrees of the Starre Chamber gratis, which was granted him." Peyton, f. 35.

[9] "Gett a copie of both these petitions," added in cipher. For these petitions see Rushworth, IV, 74-79.

First by Mr. Noy questioned for some inoffensive passages of his in a booke called [*blank*].[10]

When it was in reading Mr. Pymme moved that Mr. Secretarie Windebanke might bee speedilie sent for to come to bee examined if the Kings affaires would permitt: and soe the Serjeant of the Howse [*blank*].[11]

Then followed the residue of Mr. Prinns peticion: that [*blank*] fined 3000£,[12] expelled out of Oxford and Lincolnes inne, and hindred from his profession. His bookes seized by one Crosse a messenger: etc. innumerable other oppressions and miseries etc. To Carnarvan Castle in North-Wales in a base dogg-hill, etc. Then was hee conducted to the Isle of Jarsey to a mountainous castle ther, etc. 8 yeares tragicall miseries to bee taken into consideration, etc.

Then Mr. Prinne came in and standing at the barre his petition was carried to him and hee affirmed his name to bee subscribed to it and avowed it.

Then was read the petition of Calvin Bruin[13] mercer of the cittie of Chester, being extreamelie vexed and troubled for being with Mr. Prinne at Chester with the consent of his keepers; and hee was sentenced for it at the High Commission Court at Yorke, kept from his trade 8 months, fined 500£, and was forced to make a most uniust and wicked submission in the Cathedrall church in Chester; and in the Common hall ther: against his conscience, by which hee condemned Mr. Prinne and iustified the cruell proceedings used against him. Sunday, Dec. 15, 1637, the submission made. Matth. 16, 17 Dr. Snell Archdeacon of Chester preached on that text and shewed that it was the mercie of the Church to take these seditious persons.

Peter Lee grocer of Chester and Richard Tolburne[14] gentlemen weere troubled as aforesaid for visiting Mr. Prinne at Chester; and because they would not make such wicked submissions as weere required they weere forced to flie into other Countries. Dr. Merwicke had 35£ and the Archbishoppe 2 butts of sacke etc., and damnified above 1000£ and themselves almost utterlie undone.[15]

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[10] *Histriomastix.* The words, "Licenced by Mr. Thomas Buckler" crossed out in the MS.

[11] "Answer was brought, that, upon his Majesty's occasions, he sat up all last night, and was newly gone to bed; yet, if the House would command him, he would presently come; but there was order given, that the like intimation might be given him to be tomorrow morning by eight of clock." C.J. II, 44. "Answer that [he] is gone sick to bed." Northcote, 27.

[12] Rushworth gives 5000£, which is correct.

[13] About Bruin's case see *A New Discovery of the Prelates Tyranny* (1641), 92-101, also *The severall Humble Petitions of D. Bastwick, M. Burton, M. Prynne* (1641), 35-39.

[14] Richard Golborne. See *The severall Humble Petitions of D. Bastwick, M. Burton, M. Prynne*, 30-34.

[15] "Peter Lee and Colborne gave Dr. Merrick 35£, two butts of sack to Archbishop, 12 to one of his servants, to get access and favour from Archbishop, to their damage

These Petitioners came all in to the Howse with the Serjeant and stood at the barre and all of them saw ther peticions and acknowledged them to bee thers.

Peticion of Nathaniel Wickens late servant to Mr. Prynne, that hee was taken from the tower of London, and severallie closelye imprisoned and examined; having been transmitted from prison to prison and at last after long miseries and troubles and oppressions; and that the Archbishop vowed hee should never bee sett at libertie till hee had discovered his masters secretts.[16]

f. 46a] Then came in Nathaniel Wickens and standing at the barre acknowledged his hande to the petition and avowed it.

The Clarke takes noe names for a Committee if anie member stand upp nor whilest the Speaker stands upp.

Sir Arthur Ingram moved to have the proceedings in the Starre-chamber to bee referred to one Committee and this to another.

I moved that it should bee all referred to one Committee and gave the reasons because though ther weere proceedings in severall courts yet all concerned Ecclesiasticall matters. And soe it was agreed and a Committee named etc. viz. Mr. Hollis, Mr. Fines, Mr. Comptroller, etc., myself and others etc.

An order for ther meeting etc. at two of the clocke too morrow in the checquer chamber.

Ordered that the Committee for the Lord Mount-Norris shall sitt againe this afternoone (as I remember).[17]

Ordered that to the Committee in Mr. William Fonts busines shall consider of other businesses and complaints in Leicestershire, touching militarie affaires.

Post meridiem[18]

We mett in the Checquer chamber fowre of us of the Committee in the Election betweene Mr. Hobbie and Mr. Burlacie about the election at Marlow in the Countie of Buckingham, wheere Mr. Whitlocke was choosen without controversie. And wee adiourned the Committee unto Friday come sennight at two of the clocke in the same place.

Then I went to the Grand Committee in the Howse about Irish affaires wheere a subcommittee was named of which I was one to consider of Sir Fredericke Hambledons petitions in the inner Starre-chamber at two of the clocke on Saturday next in the inner Starre-chamber. Ther weere other

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of 1000£ in trade, being forced to leave country for not making submission enjoined by High Commission." Northcote, 27-28.

[16] For a fuller version of this petition, see House of Lords MSS., *Hist. MSS. Comn.*, IV, Pt. i, 31.

[17] *Cf. Journals*, II, 44.

[18] For the minutes of the Subcommittee of Religion meeting this afternoon, see *Proceedings in Kent, 1640*, 85.

petitions read touching irish affaires of no great moment, all tending to the further discoverie of the Lord Deputie or Lord Leiftenants uniust actions oppressions.

December 4. Friday. 1640.

Ordered that the Ladie Dimocks petition and all others that concerne the taking in of the Fenns shall bee referred to the Committee in Dr. Thompsons cause.

SIR FRANCIS KNOWLES moved that divers Freeholders in Kent complained of the election of the knights of the shire for Kent; tis true the time for preferring the petition is past, but that was not ther fault for they delivered a petition to a member of this Howse in due time who promised to deliver it: and this hee hoped should not turne to ther preiudice.

An addition was made to the Committee touching the pulling downe of St. Gregories Church.

An act for the confirmation of certaine letters pattents granted by King James to Mr. Wilbey of a certaine salt marsh read 1^a vice.[1]

f. 47a] An order was made upon MR. STROUDS motion that everie one that upon comming into the Howse did not take his place, or did after the taking his place talke soe loud as to hinder the busines of the Howse from being heard should pay 1^s to bee divided betweene the Serjeant and the poore. And ther was added to the order upon SIR JOHN STRANGWAYES motion that after twelve of the clocke ther should bee noe new busines entred into or moved without the leave of the Howse. This was ordered when the Bill was halfe read.[2]

SIR WALTER EARLE moved that the generall fame and rumor was that Secretarie Windebanke was fledd; and therfore ordered that the Serjeants man should goe and know certainlie whether hee weere fledd or not; and to require Mr. Read his clarke to repaire speedilie hither[3] if the Secretarie weere not to bee found. If the Secretarie himselfe bee to bee found then to warne him to attend the Howse speedilie.[4]

I mooved before the order was made that it would bee in vaine to search his studie (which had been moved) for doubtles his papers weere removed before himselfe went; and if the birde weere fledd the eggs weere broaken.

MR. PYMME mooved that the Howse would name five to ioine with the

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[1] "An Act concerning a certain salt marsh called Moulton Common Marsh, in the county of Lincoln." C.J. II, 45.

[2] "This order was made only for terror and little otherwise observed." Peyton, f. 35.

[3] The words "And the servant that tolde him hee was yesterday abed" are crossed out in the MS.

[4] "Sir Walter Earle [moved] that there was a rumour about the Towne that Secretary Windibanke was fled; or nott to bee founde: and desired one might bee sent to see; Which being done accordingly, answer was returned that hee was gone." Peyton, f. 35.

See Windebank's letter in his own defense, written from Calais to the Lord Chamberlain. Nalson, I, 652-653.

Lordes five in examination etc. Earle of Strafford, and soe it was answeared that anie five of the eight[5] before named as a Committee might bee present of which himselfe was one: and libertie was given them to make a protestation for secrecie.

Then was a complaint made of one Francis Traford a popish colonel that hee enforced the cuntrie people of Yorkeshire[6] against all law and iustice to bring him sheetes and blankets for his use.[7]

MR. GRIMSTON moved that the Committee touching the forrests might bee enlarged, and soe after divers motions it was ordered that all would come to the Committee might have voice. And soe eight weere named to meete at Checquer Court on Monday next at two of the clocke.

SIR THOMAS BARINGTON saied a great Judge tolde him that Forrests should bee found in all Counties of England but three:[8] and being required to name him, saied it was the now Lord Keeper.

Then was Mr. Henrie Burton called in and saw his petition preferred and read yesterday morning, and saied hee avowed it and had signed it.

SIR HENRY ANDERSON averred that Yorkshire had suffered moore by the insolencies of the Kings armie, then the Bishoppwick of Durham had done by ther contribution to the Scotts: and that ther might a Committee bee named to gather the insolencies together of the officers and captaines, and to present them to the Lord Generall: which was agreed.

Then was a particular complaint made of insolent levies made by Sir William Pennymans Serjeant Maior Yore[9] upon the inhabitants in the wapentake of Langburne.

SIR WILLIAM PENNYMAN excused the matter and laied it upon his Serjent Maior, but SIR HUGH CHOLMELEY shewed that all the insolencies grew from Sir William Pennymans owne warrant, which was openlie read, viz. Oct. 19, 1640 was Pennymans warrants dated to the Constables to make levies of monies, or to bring men that would not pay to serve in ther owne armes.

f. 48a] SIR HUGH CHOLMELEY enlarged the complaint and shewed that great oppressions and iniuries had been exercized upon the people and inhabitants by vertue of the saied warrant. Nor was the Lord Leiftenants uniust dealing and oppression a sufficient ground for Sir William Pennymans uniust proceedings. And soe by vertue of Pennymans warrants, William Bates the high Constable sent out most insolent warrants, for the levying of monies, and that men had been charged for monie.[10] MR. CREWE moved that a speciall Committee might bee appointed to examine for manie these complaints etc.

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[5] Both the *Journals* (II, 45) and Peyton (f. 35) say, any four of the eight. It was any five of the Lords. L.J. IV, 103. The four were named by Pym, "Lord Digby, Sir W. Earle, Mr. Grimston, Mr. Stroude." Northcote, 29.

[6] *Durham* crossed out and *Yorkshire* inserted.

[7] "Sir P. Stapylton. Concerning warrant to Stockden Castle from officers of Army, to declare such as will not lend blankets and sheets enemies to the State, by Francis Trafford. Copy of the warrant avowed by Mr. H. Fowles." Northcote, 29.

[8] "That my Lord Keeper said, That hee would find Forest in *any* County of England [the editor's italics]." Peyton, f. 35. *Cf.* Northcote, 29. *D.O.* (10) agrees with D'Ewes but is clearer: "All England stand upon Forest Lands, except three Counties."

[9] "Capt. Yeoward Sergeant Major to Sir William Pennyman." Northcote, 30.

I moved that the same Committee might have power to examine all complaints of this nature, for this chopping and changing of men had been a generall greivance.

Then came Sir [John] Brampston, Lord Cheife Justice of the Kings bench and Sir Edward Littleton etc., with a message from the Lords inter 11 matin et 12 noon. The message was that the Lordes did desire a present conference by a Committee of both Howses in the painted chamber, touching the great busines that concerned the two Kingdomes.[11]

Then they retired and being shortelie after againe admitted the Speaker saied to this effect. This Howse hath considered the Message sent from ther Lordships and will foorthwith give them a meeting as is desired.

Then MR. HOLLIS made a motion that Mr. Hobbie elected and returned one of the Burgesses for Marlow Magna in Buckinghamshire might bee received into the Howse, the onlie scruple having been his being sheriffe. The Lorde Keeper saied (after most of our Howse and manye of the Lords weere mett in the painted chamber)[12] that the Commissioners appointed to treate wi[*blank*]

Then the Earle of Bristow gave an account of ther proceedings said that the Lords Commissioners had commanded [*blank*]

First the King hath been graciouslie pleased to confirme all the 40 acts of Parliament which had [*blank*]

14 Jan. next a new Session all these acts of Parliament made in the Parliament begunn ii June last past.

An order dated Dec. 3, 1640 by which the Scotts did ack[*blank*]

f. 47b] Wee doe in the name of the Parliament and whole kingdome of Scotland acknowledge in all humilitie and thankefullnes his Majesties roiall Justice and goodnes in granting our first demand being fully assured that the Parliament will leive nothing undone that may serve for his Majesties honour and that the whole Kingdome in testimonie of ther thankefullnes will earnestlie pray that God may grant his Majestie a long and prosperous raigne.

3. Dec. 1640. Ad. Blair.

f. 48a] The Lorde Commissioners have now setled all things touching the crowne of Scotland. The 2d thing to bee [*blank*] it was concluded at Rippon for two months [*blank*] The 16 of this month the cessation of two months ends; and the time grew neare and that both armies beginn now prepare etc. Whether this cessation of armes may not bee continued a moneth if the treatie soe long holde: and this is to goe on upon the same termes as before, onlie that all things might bee concluded: for there are 7 heads yet to bee treated offe. But the King would doe nothing without the advice of this Howse. The Lord Keeper concluded the Lordes in the Upper Howse had approoved all this:

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[10] According to Northcote (30) Cholmondley said Pennyman "sent warrant Easter last for discharge of trained men, paying 15s to officers. Upon that most of [the] trained men changed."

[11] L.J. IV, 104.

[12] A fragmentary account. See the discussion of this whole matter of the negotiations in Baillie, I, 274-283.

And the Earle of Bristow saied privatelie to Sir Thomas Roe that the Lordes desired our answeare this morning.

f. 49a] Mr. Glynne moved about Doctor Cousens and Doctor Layfeild bailes. And first Dr. Cousens baile was refused for Doctor Layfeilds it was denied by the Howse but that his cause might bee heard before the Committee too morrow; and then report the state of it on Monday morning; to the Howse: and then it was to question:

As many as are of opinion that the Serieant shall forbeare to take baile of Dr. Layfeld according to a former order till the Howse take further order let them say, I.

As manye as are of opinion that Dr. Layfeild shall bee heard too morrow before the Committee of religion let them say, I.

And both these overruled in the affirmative.

And it was ordered accordingly.

Rowland Wilsons baile was accepted, and Mr. Conrados.

Then Sir Thomas Row made a Reporte of our conference with the Lordes to the purpose before sett downe.[13]

But then followed a long and unnecessary dispute about the question wee should put about our assent to the prolongation of the Treatie and cessation of Armes for a month longer.

I moved to have two questions putt to the two heads of the Earle of Bristowes relation. That the orbes mooved in this Treatie like the celestiall orbes with soe much harmonie as I should bee verie sorrie they should receive any checke heere; and therfore if much further dispute weere like to ensue, I wisht hee would put it to the question whether wee should put it to the question.

As manye as are of opinion that this Howse doth approve etc.

Resolved upon the Question that this Howse did approve that ther should bee a continuation from the 16th day of this ensuing December of the Treatie and Cessation of armes betweene the Lords Commissioners upon the same termes as before.

Sir Thomas Row sent upp to the Lords to declare our resolution returned not before the Court rose.

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[13] *Cf.* Peyton, f. 35.

An addition of all the Knights of the shires to the Committee that was to draw the bill for the grant of an 100,000£ to meete this day at 2 of the clocke in the Checquer Chamber.[14]

Sir John Culpepper moved that his election and Sir Edward Deerings for the knights of Kent had been questioned in the morning; hee desired those gentlemen that had been at that election and weere now present might but testifie whether it had not passed fairelie and unquestionablie: which Sir Peter Hamond and divers others did and soe the Howse rested satisfied: and that one Mr. Browne who stood against them lost it by many voices.

Post meridiem

In the afternoone the Committee sate in Mr. Prinns and Mr. Burtons businesses (of which Committee I was) in the starre-chamber,[15] and upon Mr. Bruin peticions and others involved in ther sufferings. Ther weere read the three petitions of Mr. Prinne, Mr. Burton and Mr. Bruin: which had been read yesterday morning in the Howse. Then Mr. Prinne and Mr. Burton not being readie wee proceeded with Mr. Bruins petition; and hee proved the messengers seizing him from the high Commission at Yorke, his exacting 3£ fee, his taking the oath *ex officio,* and other oppresions. But hee being not fullie readie day was given him to appeare againe the Wednesday after twelfe-day. And Mr. Fountaine was assigned him for Counsell.[16]

f. 50a] December 5. Saturday. 1640.

Mr. Valentine Mr. Stowel and Mr. Moile all returned for the Burrough of [*blank*][1] in Cornwall; it was alledged that Mr. Valentines election was cleare without controversie and that hee had sitten divers dayes in the howse and soe it was agreed hee should sitt still; before the matter of the saied election weere determined.

And wheereas Mr. Hollis had moved yesterday that Mr. Hobbie might come into the Howse, betweene whome and Mr. Burlacie ther was some controversie touching the election at Marlow Magna in the Countie of Buckingham it was resolved by the Howse this day, that neither should bee admitted to sitt in the Howse till the saied matter in controversie weere determined.

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[14] See L.J. IV, 104.

[15] Following words written in cipher after 'star chamber'—*"ubi impie condemnati et hoc mero casu acciderat dei providentia."*

[16] Peyton (f. 35B. The two unnumbered folios following 35, I have designated as 35B and 35C) gives the following report from the Committee for Courts of Justice: "If a Capias goe to a Sheriffe against a nobleman or in any other way, The Sheriffe is nott answerable for the Execution of it because the writt is returnable, and hee is to doe his dutie according to his Oath to the King in his office ect. In case of publique greivance, damages have beene given to a private person ect. If a Commission issue hee cannott imprison: butt by writt or proces hee may.

"Mr. Palmer. An Oathe hee hath seene given in the house, though it bee nott the ordinary practise to doe it ect.

"Why an Oath is nott used; one reason was given, because the Commons of England are all supposd to bee here; and noe man's cause butt is knowne to some of this house."

[1] St. Germans.

Sir Walter Earle moved that the ancient order of the Howse might bee observed viz. that noe bills might bee read the second time but betweene the howres of 9 and 12. And it was agreed to.

Then Mr. Lentall the Speaker moved that Bills might bee read the first time earlie in the morning: and that was likewise admitted.

All the marchants and Mr. John Moore added to the Committee for Monopolies.

It was directed that a warrant for a new writt to goe from the Speaker to the clarke of the crowne to send a new writt for the election of one new knight in Bedfordshire in the Lord [*blank*].[2]

A petition from the inhabitants of Watford in the Countie of Hartford against Thomas Coningsbie Esquire who was sheriffe ther in the yeare 1638, preferred by Mr. Capell, for the vigorous collection of shipp-monie by one that hee imploied to collect it; and that noe restitution had been made of the overplus of distresses.

Ordered that a select Committee should bee appointed to consider of this petition and of all others of this nature and that noe sheriffe or other officer that had been rigorous in collecting it should bee of the Committee [*blotted*]

I spake to the order and asked if those sheriffs that had been called into the Starre chamber for not collecting it should bee of the Committee: and all agreed they should: yet the order was not amended; but my name was in the Committee: and all that will come to have voice in the Checquer chamber Tuesday next at two of the clocke excepting the saied sheriffs as aforesaied.

Then it was moved about the 50,000£ to bee sent into the North that 30,000£ should bee disposed offe according to the Lorde Generalls warrants by Sir William Udall unto the Kings armie, and for the 20,000£ to bee distributed among the Northren Counties that to bee done by the order of the Committee formerlie appointed in this busines.

A motion was made to recover Sir Edward Cokes written bookes or other bookes being 19 in number which weere taken from him during his last sicknes: etc., and a Committee appointed to search for them, of which I was one.[3]

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[2] ". . . in the place and stead of the Lord Wentworth, summoned, by his Majesty's Writ, to the House of Lords." C.J. II, 45. This was Sir Thomas Wentworth, eldest son of Thomas Wentworth, fourth baron Wentworth of Nettlestead.

[3] "Mr. Cooke said, That when his father (Sir Edward Cooke) was on his death-bed, his Study was broken and searched and his bookes carried away, among others three bookes of his owne Labour. 1. Pleas of the Crowne. 2. Jurisdiction of Courtes. 3. Explanation of Magna Charta.

I moved that Janus like etc.[4]

And therupon an order made and that wee should search etc.[5]

A petition[6] of the marchants of London trading in French wines; that they have a great quantitie of wines on the Thames etc. 4£ per tunne. Sir Thomas Dawes collector of the same impost would not accept of bond to pay it if it should bee confirmed by act of Parliament; but hee would not accept this; but would force speedie paiment.

Divers moved that Sir Thomas Dawes should bee moved to take bond etc. of the saied marchants for the saied monie till the saied busines should bee discussed in Parliament, and soe to permitt them to land ther wines.

f. 51a] MR. ROLLS moved that wee should not assent to the giving of bonde to any thing that is illegallie imposed etc.

I seconded that motion and said I utterlie misliked that wee should give countenance to any bonde to bee given for anie parte of the imposition that is illegall; I cited Rot. Parl. de a°. 50°. E. 3. n°. 33°.[7] of one John Pechie that had gotten of E. 3 an imposition of 3s 6d upon a Tonne of wine: and hee was sent for to the Parliament and fined 500£ and sent to the Tower, and I never read that hee asked securitie by bonde after.[8]

And upon my speech the sence of the Howse was altered, from allowing any bondes to bee given.

Then followed a long and frivolous dispute concerning the Committee that was made to consider of the pulling downe of St. Gregories Church, and was againe referred to the Select Committee before appointed in it.[9]

Another appointed to sitt this afternoone in the chaire in the Committee for priviledges in Mr. Maynards roome viz. Sir Thomas Withrington.[10]

The peticion of Mr. Warner the late sheriffe of Warwickshire etc. to bee delivered out of the Tower was read.

The peticion of Richard Holford read alsoe that was sent to the Tower about words spoaken against Sir Arthur Haselrigg.

"Mr. Pymme. Desired the house to observe what courses and endeavours there had bin to suppresse the Evidence of the liberties and rights of the subject." Peyton, f. 35B.

Northcote (31-32) adds: "Ransacking Lord Cook's study at his death. Taking away 19 manuscripts and other books, 3 ready for press, from his man." Bruce discusses the disappearance of Coke's papers in his Preface to *Cal. St. P. Dom. 1634-1635*.

[4] D'Ewes has written a note to this, "to see foregoing page," but failed to fill in that page afterwards.

[5] "This Committee is likewise to take into consideration the inquiry after such books, as Mr. Attorney has received of Mr. Noyes." C.J. II, 46.

[6] Presented by Alderman Pennington. Northcote, 31.

[7] *Rot. Parl.* II, 328.

[8] The following is written in cipher: "At which all almost saied wel spoaken and many laughed." D'Ewes's self-important antiquarianism could not but provoke amusement.

[9] See C.J. II, 46.

[10] Maynard had asked for leave to attend the funeral of his sister-in-law. The committee was to choose another in his place. Peyton, f. 35B.

Soe the Howse gave consent to ther enlargement and that they should come hither on Monday morning to make ther submission.[11]

Soe Mr. Holford was discharged upon the Question putt.

Then was it disputed whether Mr. Warner should bee delivered till hee had given securitie; and I moved ther needed noe securitie for it was a dett now due to the crowne upon the statute and soe the dett would bee taken order for out of the Exchecquer well enough.

And soe it was resolved upon question hee should bee delivered without giving securitie. Then was Sir John Dawes sent for[12] cheifelie upon my former motion, but renewed by Mr. Cage.

Mr. Hide gave a verie good account about his search and enquirie about Sir Edward Cokes bookes: viz. that hee had spoake with Sir John Bankes the Attournie generall and that ther had been two seizures of papers and bookes one by Sir John Coke then secretarie, The other by Sir Francis Windebanke. That the bookes taken by Secretarie Coke weere in his hands; but those Secretarie Windebanke tooke hee received againe from him and hee hath a note what they are which hee promised to shew. Hee saied hee had divers bookes of Mr. Noy but did not know what hee had of Sir Edward Cokes except a copie of his comment on Magna Charta.[13] Sir John Coke should bee written to.[14] And soe the order was enlarged to see Noyes bookes alsoe, and to [*blank*].

It was ordered the shipp-monie should bee argued on next Monday morning peremptorilie: viz. as it afterwards fell out that the Committee appointed to search the Commissions and iudgments should speake to it.

Mr. Sollicitor made reporte touching the acte to bee drawen about the 100,000£ to bee sent into the North, that the Committee was of opinion it was best to rate men for ther whole estate.[15]

And this unnecessarie question drew a long dispute in the Howse upon all sides.[16]

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[11] "Mr. Warner Sheriffe of Warwickshire, and Mr. Holford, upon their petition had Order to bee released out of the Tower: Performing the order of the house made at their commitment which was for Warner further, that hee should make his acknowledgment at the Barre in this house, and also at the next Eleccion at the County Court (for one of those which hee had returned was voided and a new writt went for his roome) in such words as the house should appoint him." *Ibid.*

[12] ". . . to give an Account for the Imposition on the Wines." *Ibid.*

[13] "The taking away of Sir Edward Cooks Books, which he intended to publish in Print; as namely, a Commentary upon the Statute of Magna Charta, and other old Statutes. Secondly Of criminall Causes, and Pleas of the Crown. Thirdly Of the jurisdiction of Courts, which are in the hands of Sir John Cooke, late Secretary, and the Atturny Generall, and are to be brought into the House." *D.O.* 10.

[14] For this letter see Sir John Coke the younger to Sir John Coke (no date), Coke MSS. (*Hist. MSS. Comn.*, XII, Pt. ii.), II, 266.

[15] "Mr. Sollicitor. Reported . . . That there was great difficulty in the worke: and desired the advice of the house in two points, whether they thought fitt that men should bee assessed for all their estate in the place where they lived, Or whether they should bee assessed for their estate in such severall places as it lay." Peyton, f. 35C.

[16] "Mr. Whistler. The Lords of Ireland and Scotland shall pay for all their estates

f. 52a] I moved that this long and unnecessarie dispute might bee broaken offe for if wee dispute till night wee shall finde neither learning nor worth in it; I conceived it the best way for everie man to bee rated wheere hee lived. And I desired the Question might bee putt: whether men should bee rated wheere they lived.

And the vote of the Howse went with mee. And yet they againe fell after not onlie into this dispute but into a most unseasonable dispute whether ther should not bee two subsidies granted: which had likelie to have been carried but that such as voted against it cried to rise upon Mr. Pyms motion and soe wee did.[17]

Post Meridiem.

Sir Fredericke Hamiltons 4 petitions read at a Committee of which I was in the inner Starre-Chamber and wee entred into one of the petitions which I have sett downe in another paper at large.[18]

Adiournd to Thursday next to the same place.[19]

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here, if this bee admitted: and one man dwelling in the South shall bee assessed for all his estate in the Northe, which noe man can tell how to assesse. Lands and Goodes are Praediall and Locall, butt debts follow a mans person.

"Mr. Fines. Liked nott the rating where men did live of the whole estate; for that a man that lived in a little shire where hee had noe great estate, should there bee rated for all his Lands in another shire in which place they should want that assessment of such owner and come soe much short of the summe proportioned there.

"Sir John Hotham said, Rating of Land was the fashion of the Conqueror; Commissions were then sent out to enquire how many Hides of Land men had; This is formidable in my sense to proportion Land. The Turks sett their Timariotts on such proportions of Land." Peyton, f. 35C.

[17] "The debate concerning the levying of the one hundred thousand pounds, by way of subsidy, or otherwise, is deferred, to be considered of on Monday morning next, after the debate of the subjects property in their goods." C.J. II, 46.

[18] "A supporting of Tirlagh against Sir Fredericke Hambledon, that hee had been prosecuted uniustlie for lands in the Countie of Leytrim in Ireland, that after an iniunction granted bearing date Nov. 15, 1633 in the Chancerie to give Tirlagh possession of the saied lands was dissolved Febr. 17, 1633 then hee gott a second inunction 13 June 1634 and upon that obteined a letter from the Lord Deputie and some others of the privie Counsell in Ireland dated at the Castle there 9 Sept. 1634, directed to the Sheriffe of Letrim to give possession by vertue of the saied second iniunction to Tirlagh; upon which hee had possession given him by the saied Sheriffe. After which ther was an order of Chancerie 19 Dec. 1634 made after Councell had debated the Cause in open Court to dissolve that 2d inunction (dated 13 June 1634.) and the possession to remaine in Sir Fredericke Hamilton the defendant in whome it was before the saied second inunction granted. For first Tirlagh preferred a bill in Chancerie against his tenants, and then was ordered to make Sir Frederick a partie; and upon that bill weere these iniunctions granted." Harl. 165, f. 88.

[19] Peyton (ff. 35C-36) gives the following report from the Committee for Religion: "First Articles that were given in Inquisition upon Oathe (as appeares in the Register of London ect.) was 1546. By Bishop Bonner and 1550 the Booke of Martyrs, consulos.

"In the new Articles given in the Trienniall visitation at London 1640 are Impossibilities, Illegalities, Incongruities.

"Impossibilities.

"1. A Direction to looke to all offices of Ecclesiasticall Courts.

December 7. Monday. 1640.

A petition preferred by Beniamin Hamond[1] against certaine Jesuites that had seduced himselfe and his brother; and gotten his brother to passe over his estate to the disherision of his name and that hee knew wheere the Jesuites weere etc. It was moved it should bee ordered to bee committed.

I moved hee might have instant order to seize on the Jesuites etc., which was assented unto etc.

Mr. Hamond came in and at the barre avowed his petition, named Sir Tobie Matthewes and one Mr. Cotton for the two Jesuites, and one Mr. Sands another Jesuite. And saied they had all removed ther lodgings upon the proclamation, and hee knew not certainlie wheere to finde them.

Ordered that the like order should bee sent in to all Counties of England and Wales to indite and convict papists at the next sessions etc., as was formerlie sent to London and Middlesex.[2]

Then was the order read for arguing the propertie of the subjects goods etc. this day.

"2. To present every housholder nott at churche on Holydaies, Wednesdays, and Frydaies.
"3. What shops are open ect.
"4. To observe how many bow at the name of Jesus ect.
"5. What Grammars are taught in schooles whether Lillies grammar, ect.
"6. If strangers receive the Communion.
"7. Concerning the habitt of their persons ect.
"8. Whether one Minister oppugnes anything delivered by another Minister.
"9. Whether Lectures bee conformable to rites ect. when churchwardens what are agreed to bee rites.
"Illegalities.
"1. To present Fermers of the Glebe and profits which are meere temporall things.
"2. The Patronages of Hospitalls and Freeschools of Temporall cognizance only. Regist. fol. 4.
"3. Of legacies to pious uses ect.
"4. Eleccion of Clerks and their wages, merely Lay.
"5. Compeled to present their own faultes by an Oathe. Whereas the Oathe *ex officio* is where there is a precedent infamy or accusation of Incongruities.
"Canon 109, 111, 112, nott now mentioned in our Canons.
"fol. 36. *Regist: exceptis causis matrimonialibus et Testamentariis.*"

[1] "Mr. Hanham's petition, that he would discover priests. Sir Tob. Mathew, Mr. Cotton, Mr. Sands, but they were all gone upon the proclamation." Northcote, 33.

[2] For the complete order see C.J. II, 46. The order had first been made for London, Westminster, and Middlesex (see above, pp. 99-100 and C.J. II, 44).

Sir Roger Twysden notes in his *Journal* the receipt of these orders in Kent and comments: "This I conceive the first command the howse of Commons ever extended to all hys Majesties Justices of Peace through England . . . and it seemed to me very preposterous that they who were agents for others Petitioners, and Assentors in making lawes in others' stead, should generally command so considerable a part of those had sent them thither by paper Orders. . . . Besides I did not know any law (which they then profest to mainteyn) inabled a Justice of Peace to cast in prison or bind to the good beehaviour any person, Popish recusant or other, meerely for refusing to tell hys name." *Arch. Cant.* I (1858), 188-189.

Mr. Saint John one of the Committees to whome the consideration of shipp-monie with other cases had been referred, reported; they found 3 iudgments in Parliament against such retorned being:[3] 1. by Commissions for the loane. 3° Oct. 2do Caroli. 2. Commissions of Excize. 3. The Petition of right.[4]

1. For the Commissions for the loane ther weere many suggestions to warrant the execution of them. A parliament called and noe supplie granted. Great preparations abroad,[5] great dangers at home. That true Religion was irreparablie like to ruine. That speedier course must bee taken for aid then could bee granted in Parliament. That the King did promise in the worde of a Prince it should all bee bestowed upon the defence of the publike.[6]

f. 53a] Then was the Commission read by the clarke, by which the loane demanded;[7] one of the especiall suggestions was the defeate of the King of Denmarkes armie: and the likelihood of the utter ruine of the Protestant partie in Germanie; together with the other reasons sett downe before.

The reporte of the Committee[8] 3° Caroli in the Upper Howse was as appeares by the Journall ther when the petition of right was granted; was that this Commission was against law; and the King assented to it.[9]

2. Commission Febr. last, a°. 3°. Caroli was for Excize, or monies to bee raised by imposition or otherwise. It was directed to divers Lordes and others. This was never enroled; yet was the Commission damned heere in this Howse[10] and a copie then taken of it by a member of this Howse.[11] The suggestions in this Commission weere the same as before great danger and neede of speedie supplie for the defence of the Kingdome.

The report is in the Journall booke a°. 3°. Caroli.[12] Serjeant Ayliffe brought downe this Commission of excize cancelled by the Lord Keeper in the [*blank*][13]

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[3] "Reported from the Committee appointed to take into Consideration the Resolution concerning the rights of the subjects: and what had beene done in derogation to them ect: found severall infringements of the subjects rights." Peyton, f. 36.

[4] "3. Addition to the Petition of Right desired by the Lords." Northcote, 33. "3. the saving desired to bee added to the Petition of Right." Palmer, f. 86.

[5] "The King founde the Crowne engaged in a warr entred by his Father upon advise of both houses of Parliament, his treasury exhausted unavoidable necessitie." *Ibid.*

[6] "The monie not to bee expended but to common uses." *Ibid.* For a history of the forced loan see Gardiner, VI, 143-277 *passim.*

[7] For directions to the Commissioners see *Cal. St. P. Dom. 1627-1628,* 6.

[8] Meaning that the Commission having been read the report is now resumed.

[9] "This by the Petition of Right by this howse lords and assented by the King adjudged unlawfull." Palmer, f. 86.

[10] The Compilation for 1628, of which a copy is in the Massachusetts Historical Society, for June 7, 9, 11, and 13, is the most detailed account of the action taken by the House.

[11] "Hee [St. John] delivered a Copy of it in a paper which a member of the house had taken then out of the Commission." Peyton, f. 36. Many copies were made from that first one; it is one of the separates for 1628. The most easily accessible copy is to be found in Rushworth, I, 614-615.

[12] C.J. I, 915, June 19, 1628. "Ordered that it bee entered in the Journall booke that the Commission and warrant were cancelled." Mass. MS., f. 457.

May 27, 3° Caroli, 1628. Journall booke of Upper Howse shewes that the Lordes would have added a clause of saving his Majesties roiall prerogative:[14] which was after putt out upon the motion and reasons of the Commons: least by that the petition of right should bee void of itselfe by this clause. And when the first conference tooke not effect, the second conference prevailed.

And the two Howses of Parliament 3° Caroli agreed then that the King could not upon anie pretence of publike danger or necessitie of the defence of the realme raise anie taxe levie or tallage upon the subjects of England, without ther consent in Parliament.[15]

3. For the shipping-monie it consists 1, of the extraiudiciall. 2, the shipp-writts both before and after the iudgment in the Exchequer. 3. The iudgment in the Exchequer Chamber in Mr. Hamdens case.[16]

Then was read the enroling of the saied letters of the King sent to the Judges and ther answeares, enroled on the Communia Rolle in the Exchecquer: and the verie letters weere alsoe read at large with the questions his Majestie proposed.

Mr. St. John. This is onlie a copie of the enrollment in the Exchecquer. The second stepp of the Shipp-busines is the Shipp-writt which hee

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[13] "This Commission 3 Car. was judged to bee against the Lawes of the Realme, and the Lords desired to moove the King it might bee cancelled, which was done, and it was brought into the lower house cancelled." Peyton, f. 36.

[14] "The Saving desired to bee added to the Petition of Right. viz. Wee humbly present this not onelie with regarde off our owne liberties, but with due regarde to leave intire that Sovraigne power wherewith your Majesties is trusted for the defence safetie and protection of the people." Palmer, f. 87.

[15] The first amendment to the petition, the substance of which is given in L.J. III, 801, was proposed by the Lords on May 17. On the 23d a conference was held over it at which Glanville and Sir Henry Marten voiced the objections of the Commons to the proposed amendment. L.J. III, 813-820. On May 26 the Lords gave up the addition and assented unanimously to the petition. L.J. III, 824.

Peyton's version (f. 36) of the action taken on the addition is as follows:

"The desire of the Lords was debated in the house and thought fitt to bee rejected. Mr. Noye was chosen to shew the reason of this rejection, which did nott satisfy, and was agen debated, and resolved agen to be rejected. For that the clause were a bare proposition without relation to the Petition of right it were true, but putt to the Petition of right it would bee false, for then the people should not bee lyable to taxe or tallage ect. unlesse it were by the Kings souveraigne power for the Defence and safety of the Kingdome."

[16] Northcote (35) makes this point of D'Ewes clearer: "The King though for safety etc. cannot compel subjects to aid without consent in Parliament. Violations stand on three legs.

"1. Extrajudicial opinions of Judges.
"2. The Ship-writs.
"3. The judgment in Mr. Hampden's case."

For Mr. Hampden and ship money see *State Trials* (1809), III, 825-1315; Rushworth, II, 480-605, and Appendices.

abridged etc., much after the forme as tis abridged in Mr. Attournies Bill.[17]
f. 54a] Then weere first read the Kings instructions and warrant sent to Thomas Lord Coventrie Lord Keeper for the setting out the saied writt and amendment of the same in any parte wheere the townes in any Countie of England[18] [*blank*]

After which the verie writt was read which was sent to the Sheriffe of Dorsetshire to provide a shipp of 400 tonnes. Date a° [*blank*] Caroli.

Mr. St. John shewed the writt comm [*blank*].

Now followes the iudgment given in Mr. Hamdens case, etc.

In Easter terme 13° Caroli.

The sheriffe of Buckinghamshire is warned to warne all that had not paied to etc., hee warned Mr. Hamden etc., who was to pay xx^s.[19]

The first Argument was before Hillarie terme [*blank*]

The case came to Judgment [*blank*]

The iudgment was pronounced onlie by the barons of the Exchecquer but grounded upon the iudgment of the other Judges.

Consideratum est per predictos Barones quod predictus Johannes Hamden solvat predictos xx^s etc.

Then Mr. Saint John delivered the iudgment to bee read, which begann as followeth: *In Custodia Rememoratoris domini Regis in termino Trinitatis a°. 13° Caroli.*

And upon the motion of Mr. Crew and Sir John Hotham the whole proceedings of the saied iudgment weere read, which weere verie long.

And whilst it was in reading a message came from the Lordes and soe the clarke ceased till the message was delivered.

Sir Edward Littleton etc., and Sir Humfrey Davenport cheife Baron brought the message, which was a Bill for confirmation of the Queenes iointure, which had passed the Lordes, and they recommended it to this Howse, to bee passed with expedition.

Then the Clarke proceeded with the reading of the residue of the saied iudgment, etc.

Then Mr. St. John saied that the Committee thought it fitt to proceed noe further in ther reporte but to lay downe these grounds.

Then Mr. Crew moved that it might bee declared what was further debated at the Committee.

Then Mr. St. John was bidden to relate that: but hee saied hee would not report it but onlie relate it.

f. 55a] First the Committee weere all of opinion that the Judgment in the Exchecquer [*blank*].

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[17] A copy of the first ship writ may be found in Rushworth, II, 257-259; *State Trials*, III, 830-832.

[18] For the instructions from the Lords of the Council, see Rushworth, II, 259-264.

[19] For the writ to the sheriff of Buckingham, see Rushworth, III, App., 213.

2dly to vote all these 3 severallie. 1, The extraiudiciall iudgment alone. 2, to vote the illegalitie of the writt. 3, The illegalitie of the iudgment.

3dly. That wee should vote against the verie providing of a shipp and charging the subject with monies to provide it.[20]

The first writts had not the clause of *salus regni periclitatur.*

Soe the Speaker propounded the question etc., Touching the illegalitie of commanding shipps to bee provided and raising monies for it, etc., weere against law etc.[21]

Then MR. SOLLICITOR stood upp and desired some other way might bee provided etc.

MR. PERD saied hee hoped this day should bee the Funerall day of shipp-monie and that [*blank*][22]

Then was the first question propounded etc., and Resolved upon the question *nullo contradicente* etc.

2d question about the extraiudiciall iudgment of the Judges published in the starre chamber and enroled in the Courts of Westminster upon Record propounded and ther iudgment read when it was propounded etc.[23]

Then it was putt, and the iudgment onlie generallie named that had been before read and that had been published in the Starre-chamber etc.

Resolved upon question *nullo contradicente,* etc.

3d question about Shipp-writt etc. and resolved *nullo contradicente* that that shipp-writt etc., and all other shipp writts etc., and that shipp-writt weere against law, etc., and the writt was to bee entered in the booke etc.

4thly The iudgment in the Exchecquer[24] was resolved upon question to bee void *nullo contradicente* and all the proceedings in the Exchecquer weere to bee entred in the bookes.

And the same Committee that was appointed for the shipp-monie to bee appointed to take order for entring the other Commissions about the loane and excize, that they might remaine upon recorde to posteritie: and to prepare these questions that have been now voted to bee presented to the Lordes in the upper Howse, that they may likewise vote it.

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[20] "Mr. St. John did acquaint them with our opinions that all those opiniones writts and Judgments were against Lawe and those resolutions ect. in Parliament mentioned before. For that the safetie common defense and necessitie subsistence religion the grounde off the commissiones of loane and of the commission of excise. And the Petition of Right the saving being reiected." Palmer, f. 89. This important report was "ordered to be entered" in the *Journals,* but only a blank space is there.

[21] The first question in full is: "That the charge imposed upon the subjects for the providing and furnishing of ships; and the assessments, for raising of money for that purpose commonly called Ship-money; are against the laws of the realm, the subjects right of property, and contrary to former resolutions in Parliament, and to the Petition of Right." C.J. II, 46.

[22] Peyton (f. 37) completes this speech: "That the question might bee proposd once agen, That wee might give it a solemne interring."

[23] ". . . are against the laws of the realm, the right of property, and the liberty of the subjects, and contrary to former resolutions in Parliament, and to the Petition of Right." C.J. II, 46.

[24] "That the Judgment in the Exchequer, in Mr. Hampden's case, a transcript whereof followeth, *in haec verba* etc. . . . in the matter and substance thereof, and, in that it was conceived, that Mr. Hampden was any way chargeable, is against the laws of the realm, the right of property, the liberty of the subjects, and contrary to former resolutions in Parliament, and to the Petition of Right." *Ibid.*

I moved the Committee might enquire of the monie in the sheriffs hands etc.[25]

The LORD FALKLAND made a notable speech[26] against the Judges for this iudgment:[27] and especiallie against the Lorde Keeper, that hee had been the Sollicitor and perswader to this busines of shippmonie and that hee should have the honour to bee the first in the punishment.[28]

MR. GOODWINE moved that a charge might bee drawen upp against the Judges and the Lorde Keeper to bee sent to the upper Howse.

f. 56a] MR. HIDE moved that all the Judges might bee sent unto the Judges to know how they had been sollicited.[29]

MR. PERD wished that Justice Jones being sicke and in danger of death might bee sent unto speedilie.

And then divers speeches weere made how and in what manner a charge should bee prepared against them.

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[25] "Sir Thomas Roe. To have our vote carried to the Lords to have there a confirmation." Peyton, f. 37.

"Sir Th. Row. That Committee prepare the resolutions off this house to be presented to Lords. Voted.

"Sergeant Wild. That the Judgments be taken off the file.

"Mr. St. John. That to be respited till the resolution of the Lords." Northcote, 36-37.

[26] Lucius Cary, Lord Falkland. Peyton (f. 37), Northcote (37), and the *Calendars of State Papers, Domestic, 1640-1641* (300-301), give summaries longer than that in D'Ewes. For the full speech see *S. and P.* 336-341, a variant of which is to be found in the *Diary of John Rous* (*Camden Soc.*, 1856), 104-108. For an interpretation of the speech see Gardiner, IX, 245-246.

[27] "I am confident that History alone is sufficient to shew this judgement contrary to our Laws, and Logick alone sufficient to prove it destructive to our propriety." *S. and P.* 336.

[28] Peyton's summary differs enough from *S. and P.* to justify its insertion. "That the Judges have beene the authors of all our oppressions in giving wrong iudgements contrary to their oathes. That the king hath beene miserably abused in it. His Judges telling him tis lawe, His Divines tis conscience, His ministers of state that tis policie. If wee take away grievances, lett us take away the greivours. That my Lord Strafford is accused of high Treason for being supposed to have endeavoured to supplant the fundamentall lawes of this kingdome; these have done it openly. Take away the Judgments and the Judges together. That one hath beene a solliciter for an abhominable Judgment. That hee hath declared that the Power of Parliament cannott take away that power they have given the king. I suppose noe man bids mee name him, because hee is well enough knowne in this house, and I shall tell you noe newes if I tell you tis my Lord Keeper Finch. That hee was the Author or rather Secretarie of the last declaration. That the power of the chancellor was become vast. That wee should nott bee slow to pursue him. His motion was, That a Committee might bee appointed to enquire how my Lord Keeper hath sollicited and gone before this Judgement, and exceeded, and 'twould bee suteable to the Justice of this house, that his punishment should precede and exceed the others."

[29] *Cf.* Clarendon, I, 229, n. 2, for Hyde's part in the proceedings against the judges.

SIR JOHN WRAY saied *Currat Lex* and let the Common law destroy them that would have destroied it.[30]

And then followed a long dispute whether wee should send to all the Judges to know how and by whome they weere sollicited and that presentlie: manye spake to it.[31]

I moved that ther was noe neede of sending but only upon the extraiudiciall iudgment upon which they weere surprized: that may receive excuse by that Judges sollicitation of whome wee have heard: but for ther solemme iudgment in the Exchecquer that is without excuse etc., and yet if wee take things *ad pensum* and not *ad numerum* etc. wee had the better parte.

Then was it put to the Question, whether wee should send members to everie iudge to aske them by what threats: and agreed the Lord Keeper should not bee sent unto. Sir John Brampstone, Sir Humfrey Davenporte, etc., and six moore to bee sent unto, viz., Joanes, Croke, Treaver, Barklie, Crawlie, and Weston.[32]

I moved that they might goe two and two as they weere sett downe to each Judge in his order and senioritie.

But MR. HIDE one that was to bee sent moved they might goe into a chamber together and to agree amongst themselves to what Judge each two should goe. Soe they retired.[33]

SIR THOMAS ROE brought a gracious message from the King about Sir Edwarde Cokes bookes in Secretarie Windebankes handes; that they should speedilie bee looked out, and an account given of them to this howse.[34]

Then MR. JEFFEREY PALMER made a reporte touching an election at Bosinnie in Cornwall which was made in a chamber, etc. of Mr. Corington that it was void.

I moved it was the order of the Howse that a new motion should bee after twelve. But the Howse permitted him to speake.

And soe the Election was made void upon the Question.

After other motions made SIR THOMAS ROE moved on the Lord Grandisons behalfe, that being a Commander in the North hee might have libertie to stay heere some few dayes before his departure about a suite of moment hee now had which was granted.

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[30] Quoting Sir Edward Coke. Northcote, 38.

[31] Stapleton, Strangeways, Falkland, Mr. Comptroller, Colepepper, St. John, Holles, Hesilrige and others took part in this discussion. Northcote, 38-39.

[32] "16 were named to goe to 8 Judges, 2 to a Judge." Peyton, f. 38. The *Journals* (II, 46) say: "Three to go to a Judge," but this must be wrong, for there were eight judges and sixteen members of the committee.

[33] "And these went into the Committee chamber to consult how to divide themselves, and having agreed they went first out of the house that noe body might goe before to give warning of their businesse." Peyton, f. 38.

[34] "Report from his Majesty that the books [of] Sir E. Cook were by his order delivered Mr. Attorney, and returned to Sec. Windebank. Where [they] now are, his Majesty knows not, but within two or three days to cause them to be looked up." Northcote, 40. In D'Ewes's text the words "gracious message" are separated from what follows by three short paragraphs.

Mr. Maynard made a reporte of Sir Edward Osburnes election at Barwick was void etc., and soe resolved upon the question: and a writt to goe for a new election.[35]

Then Mr. Mainard reported about Sudburie in Suffolke that Sir Robert Cranes election was good: which was in controversie betweene him and Mr. Brampton Gurdon.[36]

Then Mr. John Gurdon stood upp and shewed that the saied Mr. Brampton Gurdon his Father had wrong, that the Mayor refused to take the Poll for him, Mr. Gurdon both at first and at last, and desired the Mayor might bee sent for.

Then Sir Arthur Haselrigg seconded the motion but it being likely to come to a long dispute: the Howse deferred it till too morrow morning and rose.

f. 57a] Post Meridiem.

At the Committee for the Forrests-busines which sate in the Checquer chamber of which I was: wee had a petition preferred by Sir Baynan Throckmorton and others inhabitants within the Forrest of Deane, against Sir John Winter who had a lease in fee-farme forever of the Forrest of Deane at the rent of neare upon 2000£ per annum with other conditions and reservations. It was alledged that the timber in that Forrest would in time bee destroied by him. Hee answeared that all thriving timber trees weere excepted out of his lease: and marked: and all decaiing timber trees weere reserved especiallie for shipp-timber: soe the sence of the Committee was that till his cause weere further heard hee should bee restrained from further cutting anie matter.

December 8. Tuesday. 1640.

Sir Roger North upon the Lord Fairfax[1] motion had licence to depart for a season into the countrie about his necessarie affaires.

A petition of Edward Colfer Esquire against John Anguish late Mayor of Norwich (in 1639) for uniust assessing him and committing him about shipp-monie that yeare and for saying what doe yow tell mee of the law, the Prerogative law is now in force. And by a note it was averred hee saied, Prerogative was then trumpe. And wisht the saied Mr. Colfer to studie the Prerogative better.

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[35] No doubt there was politics here. The Earl of Northumberland had tried to put in a Mr. Pott, but Sir John Conyers had been able to put through Sir Edward Osborne, Vice President of the Council of the North and a supporter of Strafford. Osborne had been rejected by York because he was a supporter of Strafford. See Conyers to Conway, York, Nov. 13. *Cal. St. P. Dom. 1640-1641*, 258; Conyers to Conway, Jan. 1, 1640/41. *Idem*, 403-404; and *cf. idem*, 158.

[36] This disputed election case is mentioned in C.J. on Dec. 8.

[1] Ferdinand, Lord Fairfax.

SIR HENRY MILDMAY saied that hee desired hee might not bee sent for as a delinquent till the offence weere proved which was verie foule.

Yet the order was entered and read to send for him as a delinquent.

Mr. Framlingham Gawdie was licensed to depart for a time into the cuntrie about his necessarie affaires.

It was ordered the canons should bee argued againe too morrow.

Resolved upon the question that the Election of the Knights of Buckinghamshire should bee not questioned this Parliament.

Mr. Maynard being choosen in two places[2] elected Totneis. And Mr. Hamden being choosen in two places[3] made his election to stand for knight of Buckinghamshire.

MR. MAINARD made report of the Election at Sudburie and that it was conceived by the Committee that Sir Robert Crane was dulie elected.

SIR ARTHUR HASELRIG one of the Committee moved that Sir Robert Crane my selfe and Mr. Gurdon stood for the Burrough of Sudburie in the Countie of Suffolke. That I was elected without controversie. And that the Mayor had dealt verie foulie to advance Sir Robert Cranes election; altering the day from Saturday to the Monday; then in breaking offe the Pole, and that Sir Robert Crane himselfe threatned men; and his servant threatned men.

MR. WHISTLER spake in Justification of Sir Robert Cranes election.

MR. BAGSHAW spake and iustified the Election of Sir Robert Crane.

Soe upon question it was resolved in the Howse that Sir Robert Crane was dulie elected and returned.[4]

MR. PYMME saied if Sir Robert Crane did threaten it was a delinquencie. SIR JOHN STRANGWAIES was therupon verie hott.

f. 58a] And then MR. PYMME explained and iustified himselfe. And much hott dispute might have ensued but SIR ROBERT HARLOW and SIR WALTER EARLE stood upp and spake to the orders of the Howse, that Sir Robert Cranes Election being voted to bee good, ther ought to bee noe further dispute of it.

MR. MAYNARD made report of the Election at Windsore wheere Sir Thomas Roe and Mr. Waller weere elected wheere divers had stoode. And first it was voted in the Howse that all the men of Windsore had a voice.[5]

Sir Thomas Roe had been alsoe choosen at Oxford and had made his election ther, and soe spake long touching this election being all of little moment. And in the issue hee moved that a new writt might goe downe for a new election. SIR WALTER EARLE spake somewhat touching the Election and concluded that one Mr. Hollands Election was good. SIR JOHN CULPEPPER spake and thought sufficient notice was not given; and soe desired that a new writt might goe foorth.

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[2] Totness and Newport.

[3] Wendover and the county of Bucks.

[4] The following written in cipher, "*deo providente ego certus.*"

[5] "Inhabitants of Windsor [to] have a voice in election." Northcote, 40.

Sir Thomas Roe would have spoaken againe, and SIR WALTER EARLE interrupted him and told him it was against the orders of the Howse. Then the Speaker saied hee had leave of the Howse: and soe SIR THOMAS ROE spake a worde or two that notice was not given. Then MR. HOLLIS saied that if anie speake by leave of the Howse; it must first bee putt to the question in the Howse whether they will give leave or not.[6]

Then MR. MAYNARD spake and saied hee thought ther was noe notice given as in law it ought.[7] Then another spake whome I heard not well.

I conceived and spake that I thought a new writt must goe out for a new election because Mr. Holland was not returned by the Mayors indenture but by an Indenture returned by the undersheriffe in a strangers name that noe man knowes wheere to finde.

After this followed many speeches about the notice not given as it ought to bee, which made the election void; and others would have iustified the election of Mr. Holland.

Then arose a long debate what question should bee putt; whether Mr. Hollands election weere good or whether Mr. Hollands election weere void: and this cost above halfe an howres debate; and lost much pretious time.[8]

And soe at last it was putt whether it weere good; and overruled it was void; because the Noes carried it, and this was the first time the Noes carried it.

The LORD FALKELAND reported that Sir John Brampston cheife Justice [*blank*][9]

MR. HIDE to the cheife Baron: denied that hee was ever surprized or perswaded in his extraiudiciall [*blank*][10]

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[6] The rule that members should not speak twice to a single subject was apparently often relaxed.

[7] "The Inhabitants must have a customary or a Particular notice of the writt; and nott the rumour only, which is butt the newes of an Eleccion only and not notice." Peyton, f. 38.

[8] In cipher is written: "All the honester men desired it might bee putt whether it weere good."

[9] Peyton (f. 39) makes Falkland quote Bramston: ". . . who said, hee had never beene sollicited nor threatned ect. Butt a case was directed to him, my Lord Finch and Cheife Baron, all 3 together; but brought by my Lord Finche then Cheife Justice of the Common Pleas in these words viz. Whether the Port Townes and maritime ports being charged to find ships for defence of the Seas, ect. and they nott able, The whole kingdome in case of extreme danger whereof the king is only Judge may nott bee charged for the setting forth of such ships ect. *in iisdem verbis vel consimilibus.* They further heard, That order was given to conceale what had beene thus proposed."

[10] "That the Lord Chiefe Baron said, Hee heard nothing of it till the kings letter came for his opinion in the Case, ect. to which hee sett his hand for conformitie, butt hee referred himselfe to his Judgment in the Exchequer chamber for his opinion." Peyton, f. 39.

Mr. Goodwin reported that Mr. Justice Joanes saied that the Lorde Finch had spoaken to him verie fairelie.[11]

Mr. Perepoint[12] reported that Mr. Baron Treaver saied; that about the last of November 1635, the then Lord Finch brought him a writing to his chamber and desired him to subscribe [*blank*]

f. 59a] This was subscribed by Mr. Baron Treaver December 1, 1635.

Mr. Baron Treaver desired a copie of it, and the then Lord Finch [*blank*] That the Lorde Keeper told him that this was for the service of [*blank*][13]

Sir Miles Fleetwood saied hee had been with Mr. Justice Croke. Hee confest the Lord Cheife Justice Finch had been often with him and tolde him how much this busines concerned the King and would have sifted out his opinion.

Then a little before hee argued the case the now Lord Keeper did then sollicite him at his chamber, and that hee should doe the King a great disservice [*blank*][14]

Sir Francis Seamour went to Mr. Baron Weston; who saied hee was never threatned or perswaded, but saied at first the Lord Finch did bring him a paper etc.[15]

Sir John Strangwaies had been with Mr. Justice Barclay, saied the case was shewed him by the Lord Finch; but that hee was never threatned nor sollicited.[16]

Sir Arthur Haselrigg had been with Mr. Justice Crawley, who saied hee had not been threatned and sollicited: but only the then Lord Finch the now Lorde Keeper brought him a case and desired him to subscribe to it about the shipp-monie, and desired him to give his opinion in it not to advize with anie other about it; but required secrecie of him.

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[11] "Dying men use to speak the truth, but reporter was persuaded he meant not yet to die. For reasons of his opinion referred himself to his action." Northcote, 41. "Referred himselfe to his Argument." Peyton, f. 39.

[12] Northcote makes Lord Wenman of Oxford reporter for Baron Trevor, but Peyton (f. 39) agrees with D'Ewes. There were two Pierreponts in this Parliament, but the one here mentioned was no doubt William, member for Great Wenlock and one of the men active in the opposition to the King.

[13] Peyton (f. 39) has a more connected account: "That Mr. Baron Trevers about the Last of November 1635 the Lord Finch came to him in Serjants Inne, and brought a writing and desired him to subscribe to it. (The copie of it was read, being the case *ut supra*): Noe threatning nor sollicitation was used; only the Lord Finche said, It was for the Kings service and the good of the Kingdome, and was subscribed to by himselfe, and Lord Chiefe Justice Brampston, and Lord Cheife Baron, and the rest would all subscribe, and enjoyned him service as hee conceiveth."

[14] Northcote (42) adds here: "For setting his hand, his opinion was involved in [that of] the greater number. That he meant the King was sole judge of danger in Parliament, where has a negative voice."

[15] "Sir Francis Seymour. That Mr. Baron Weston said: hee had never beene sollicited nor threatned or perswaded by any man, and doth nott knowe or thinke that any sollicitation was used to any other ect.

"Mr. Peard was required to speake, that went with him, who said, They found Baron Weston at first free and ready to give them answer, and told them that 6 weekes before the case was argued, it was sent him by the Lord Finch to subscribe unto ect. Butt before wee went from him hee would have qualified what hee had first spoken ect." Peyton, f. 40.

[16] Berkeley admitted that a paper had been sent him with a signification of his Majesty's pleasure. He denied soliciting Croke—Croke had accused him of it—and appealed to the judges present at the time. Peyton, f. 40.

f. 60a] The LORD FALKLAND spake that wee saw enough of the Lorde Keepers sollicitation to some alive. Hee saied hee had sollicited them alsoe that weere dead. Soe MR. PERD and SIR EDWARD ASCOUGH witnessed touching Judge Hutton.[17]

And then LORDE FALKLAND spake againe touching Mr. Baron Denham[18] etc.

MR. HAMDEN and MR. DRAKE[19] mentioned sent to the saied Baron to perswade him to give his iudgment for the shipp-monie.

And the LORD FALKLAND proposed that wee should prepare a thorough charge against the Lorde Keeper, which the Howse allowed well.

Then MR. GRIMSTON spake much in the defence of Mr. Justice Croke in respect of his subscribing with the other Judges how hee was drawen to it etc.

MR. SAINT JOHN moved that the Lord Finch had misreported Baron Denhams iudgment to the King upon which followed hott wordes etc.[20]

I mooved that the gentlemen sent might sett downe what they had reported and each two subscribe it to bee entred in the Clarkes booke which was not ordered at this time.

Then after divers other motions,[21] SIR RALPH HOPTON witnessed that the Lord Finch at the assize at Dorchester, did say that shipp-monie was not like the Court of Wardes such an inherent right of the Crowne that an act of Parliament could not take it away.[22]

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[17] "Lord Falkland cited Mr. Peard, and hee Sir Edward Ascough and hee Judge Hutton's owne servant; How that the Judge would often lye troubled on his bedde and say That hee could nott rest in peace and was weary of being a Judge." Peyton, f. 40.

[18] Baron Denham "had received a letter from Finche to sollicite him, with relation to shipmoney: butt by those that had read it 'twas said to bee in very close and concealed interpretation." *Ibid.*

[19] Francis Drake. Both Hampden and Drake testified that they had seen a letter to him about ship money, although Drake said it "was so obscure as he understood it not." Northcote, 43.

[20] "That Judge Denham by reason of his indisposition wrote a letter to the rest of the Judges, and gave Judgment for the Plaintife. The Lord Finche went presently and told the king hee had delivered his opinion for him, and then went to Baron Denham and told him hee had declared to the king his Judgment, at which Baron Denham declared himselfe and was displeased, and soe growing to farther words they parted." Peyton, f. 41.

[21] See Northcote, 43-44.

[22] Peyton (f. 41) puts Jane's speech before Hopton's. He makes the latter's speech a confirmation of what the former had said: "My Lord Keeper in the Circuit spake such words *ut supra,* and grounded his reason on the Court of Wardes viz., That if an Act of Parliament should passe to take away the Court of Wardes, it was voide: for it cannott take away Tenuns." The context makes it clear that D'Ewes meant to write "that shipp-monie was like the Court of Wardes," instead of "was not."

Mr. Jane saied that the Lord Keeper saied in one of his westerne circuits that the shipp-monie was such an inherent right of the Crowne that an act of Parliament could not take it away; and that if a Parliament did come in which it should bee disputed, that they should find as many tonges for it as against it.

Then Mr. Whitlocke moved that the Lord Keeper might bee sequestred.

But Mr. Pymme moved that a Committee might first bee appointed to draw a charge against the Lorde Keeper.

Then it was moved that the charge to bee prepared against the Lord Keeper and the other Judges about shipp-monie, should bee referred to the Committee about shipp-monie.

Mr. Stroud moved that Sir Randolf Crew[23] might bee sent unto, to know for what cause he was putt out of his place, which was reiected.

Mr. Whitlocke moved that the 16 sent to the 8 Judges might bee added to the Committee for shipp-monie, which was allowed.[24]

Sir John Culpepper added that hee desired the Habeas Corpus busines might bee added to this charge which was allowed.

f. 61a] Mr. Grimston moved that not onlie the Habeas Corpus busines but the deniall of Prohibicions might bee added to ther charge.

After this followed many disputations what wee should add to the charge. I moved for the first charge to goe upp of the shipp-monie. Wee have a reservation of libertie to add moore charges. Then I spake touching the Habeas Corpus; it was the roote of all our miseries it concerned our Lives; noe close imprisonment. The Persians etc., the villaines etc., like men in a shipp cast out etc. Then for prohibicions, etc.[*two words, unknown cipher*] noe Lordshipp knowen in the Saxon times etc. Prohibitions granted in time of Poperie etc. The Judges and the Archbishop in King James his time mett about Prohibitions[25] etc. I would have an act drawen that wee never bee troubled againe about Prohibitions etc., soe I moved that all these charges might goe upp in due time.

Sir Ralfe Hopton moved the Lord Privie Seale[26] etc. by the same Committee.

Soe after a little dispute the order to this purpose was drawen and some committees names weere added to the former Committee. And it was referred to them, to draw upp all these charges, to meete etc., too morrow at two of the clocke[27] in the Exchecquer chamber.

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[23] Sir Ranulph Crewe had been displaced as Chief Justice of the King's Bench in 1626.

[24] Not only the sixteen but ten others named in the *Journals* were added to the committee. C.J. II, 47.

[25] D'Ewes probably refers to Fuller's case in 1607-1608 for the jurisdiction of which the Court of High Commission and the common law judges contended. *Cf.* Gardiner, II, 36-42.

[26] "Sir R. Hopton. Lord Privy Seale gave his opinion to the Judges concerning legality of ship-money. That he be referred to Committee." Northcote, 45.

Then Mr. Hide moved that the Committee for the Court of Honour which was *sine die* might sitt againe on Wednesday next in the afternoone at two of the clocke in the starre-chamber which was granted.[28]

A letter without name was read which was supposed to bee sent from Secretarie Windebankes clarke Mr. Read which was they weere speedilie to passe into France.

For Mr. Thomas Windebanke in Drurie lane.

The letter conteined that Dec. 3 Secretarie Windebanke[29] was at Quinborow[30] and meant speedilie to passe over into France by [*blank*][31]

December 9. Wednesday. 1640.

After some frivolous motions; Mr. Capel moved that Dr. Bastwick might bee called in being at the doore: and soe being come in and standing at the barre the Petition of Susan Bastwick his wife was shewen him: and soe hee withdrew. And after hee was called in againe and time was given him to draw a new petition in his owne name and subscribe it: and soe a copie of his petition was to bee delivered him.

A motion was made for Sir George Ratcliffe to goe to Church with his keeper but divers rose upp and spake against it, and soe the motion was laied aside and came to nothing.

Mr. Rouse spake against the new Canons that the oath was unlawfull because of the etc. Secondlie that ther is a wicked benevolence enioined. 3, There is a Monopolie granted to the Archbishop of Canterburie, that after 3 yeares hee may make new articles[1] and then impose us what wicked matters hee pleaseth either for doctrine or ceremonies. Hee therfore desired that wee might enquire who weere the main contrivers of these wicked Canons and censure them deepelie.

f. 62a] Dr. Edon shewed[2] by the Stat. de a°. 25°. H. 8, cap. [19].[3] 1,

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[27] "This afternoon at two of the clock." C.J. II, 47.

[28] "And that all the lawyers of the House be added to this Committee." C.J. II, 47.

[29] "Sir Edward Dering delivered 2 letters sent him by the mayor of Gravesend, that came from Secretary Windibank or some belonging to him from Queeneborough. The first direction to Burlemache; in that a letter to Mr. Burlemache to desire the delivery of the second which was to Mr. Thomas Windibanke, the contents only that hee was come to Queeneborough, the ship was ready and the wind faire and they making for some ports in France. . . . All dated 7 December 1640 butt without names." Peyton, f. 41.

[30] Queenborough.

[31] For the minutes of the Subcommittee of Religion on the afternoon of Dec. 8, see *Proceedings in Kent, 1640*, 86-87.

[1] "My Lord of Canterbury had gott the monopoly of sole making of visitatorie Articles." Peyton, f. 42.

[2] "Dr. Eden. That the Convocation hath power to make Canons, to bind the Clergy and Laytie bothe. For they have power given them . . ." Peyton, f. 42. "Dr. Eden. Hee had noe hande in the Canons yet concerning his profession would saie something;

They ought to bee convoked by the Kings writt.[4] 2, They ought to have the roiall assent to the making and promulging: and if they faile in either of these two then they are to bee fined and imprisoned,[5] but the 3rd which will aske a long debate, that they ought not to bee against the lawes and customes and statutes of the realme. Now in these new Canons the question is whether if some being against law all the rest of them shall bee void or onlie void for soe much.[6] Hee thought that the Clergie had power at this day to make Canons by the Statute de a°. 25°. H. 8. cap. [19] to binde all men.[7] And wheereas it is objected that lay men are no parties to them and have noe voice and therfore it is unreasonable they should bee bound by them: hee answeared wee are all parties and privies to that Statute; and soe wee are parties and privies to those Canons which are made by vertue of that statute; and are therfore bound by them yet this hee submitted to the iudgment of the Howse.[8]

Mr. Bagshaw spake long and concluded to damme all the new Canons and the wicked oath with them.[9]

Mr. Rigbie of Grayes Inne spake and saied the clergie had neither power at Common law nor by the statute to make these canons, viz. the statute

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to putt itt into particular points off debate. For making Canons must grounde themselves. . . ." Palmer, f. 91.

[3] See *Stat. of the Realm,* III, 460-462.

[4] Palmer (f. 91) adds here: ". . . which sometymes before sometymes not as by the statute tempore H. 6. And when the parliament mett commonlie they were, els not. In France they are so and have been synce the tyme off Lewis 11th everie 5th yeare."

[5] "2. The King's Royal Confirmation." Northcote, 45. "2. The Kings licence. That will bee the 2 question whither the clergie had these, iff otherwise Fine and Imprisonment." Palmer, f. 91.

[6] "The 3 concernes the matter; itt must not bee contrariant or repugnant ect. in this enquirable whither all faile iff some contrarie. This I submitt to the howse to debate whither they had Kings writt, licence, or bee contrariant." *Ibid.*

[7] "And if they observe that power which is given to them and doe nott exceed it, the observance of their acts is enforced by that act which extends to the successors of those which made that Act, to bind them soe farre as it is there enacted." Peyton, f. 42.

[8] "Itt was sayd the clergie had power to Binde clergie and laitie. I am off that opinione iff not contrairiant. Ob[jection]: Iff they had noe power without this statute they have none by itt, certaine they had before a power. There is a generall synod called by Pope. A provincial by [*blank*]. A privatis [?] by everie Bishop. ["*Synodus est Generalis, Provincialis, et Diocaesana,* the last doth consist of Clergie meerly." Peyton, f. 42.] The statute did restraine onelie. They had power so they did itt by writt. Ob[jection]: That laie men should bee bounde by canons who have noe votes. In the case of excommunication which may bee by these canons, sayd this should not bee pleaded against any to staie his action att lawe. But iff condit[ion] observed, that they bee not contrairiant to lawes wee parties for parties to the statute that gave them power to make canons." Palmer, ff. 91-92. "An excommunicate person cannott bring an Accion or bee Plaintiffe; butt defendant hee may bee." Peyton, f. 42.

[9] D'Ewes's reason for omitting this speech was undoubtedly that it was in circulation; Peyton, who also omits any report, writes, "get a copy of it." Brief reports of the speech are given by Northcote (46-47) and by Palmer (ff. 92-98). For the complete speech see Edward Bagshaw, *Two Arguments in Parliament, the first concerning the Cannons, the second concerning the Premunire upon those Cannons* (London, 1641), 1-21. Neither Northcote nor Palmer adds anything to the printed report.

de a°. 25°. H. 8. cap. [19]. For ther power to bee none at the Common law hee proved it by many authorities and reasons. And for the saied statute de a°. 25°. H. 8. it was altogether restrictive. Then hee shewed that the verie Commission now granted them did not give them power to doe what they had done. Nay hee shewed that by reason of the Statute de a°. 1°. Elizabeth[10] the King could not grant such a Commission as this was. And soe hee inferred that these Canons weere void at Common law: void by the saied statutes, and void for want of a due licence. And hee instanced in divers of the Canons that some weere against severall statute lawes, and some against the Common lawes and soe concluded that all weere absolutelie void. And then hee added somewhat touching the unlawfullnes of the new oath alsoe.[11]

Mr. King a common lawyer saied hee would speake shortelie touching the illegalitie of the new canons. 1, Hee conceived that the clergie had a good authoritie to make canons at this time. But 2, hee conceived that they had not well pursued ther authoritie. It appeares by Linwood that sometimes the clergie made provinciall Constitutions by the Kings authoritie and sometimes with out.[12] But this must not reach to binde the laitie as 21 E. 4, fol. 45, our yeare booke prooves.[13] For the Stat. de a°. 25°. H. 8 hee saied that was a restraining statute of the Clergies power. He thought the Convocation writt was not a relative writt: but that ther might bee a convocation without a Parliament. Clarkes case 5 report shewes that some constitutions may binde. The parson cannot choose one of the Church-wardens, for they are a corporation at Common law; and concernes the libertie of the subject. But hee conceived none of these Canons to bee void but such as weere against law.[14] And whatsoever Bishop hath administred this oath are in a Praemunire 7 H. 8, Keilweys reporte,[15] it is the verie expresse case heere that such clergiemen as shall doe anie thing against the Kings Prerogative are in a Praemunire: and that have they done that have administred this oath.

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[10] 1. Eliz. cap. I. "An acte restoring to the Crowne the ancient Jurisdiction over the State Ecclesiasticall and Spirituall and abolyshing all Forreine Power repugnant to the same." *Stat. of the Realm,* IV, 350-351.

[11] "Mr. Rigbie. The canons are founded upon 2 commissions wherin licence and authoritie given. So iff they had power by lawe then the licence enabled them, iff not then authoritie from the Kinge. The statute 23 H. 8 confirmes the constitution etc. Therfore noe inherent power. The statute off 25 H. 8 the first authoritie. The words negative they shall not presume and not affirme they shall doe itt. Doth not enable them but iff writt and licence then not within the punishment off Fine and Imprisonment.

"37 H. 8 they have noe Jurisdiction but derived from the crowne 1 E. 6 cap. 1. and *Idem.* 2 et 3 E. 6 cap. 13.

"The convocation writt calls then for defence and cessing the parliament ceaseth. The first commission is during the parliament. That therfore ends with the parliament either by itt self or the commission of Aprill. The 2d commission is by all the clergie; and they are not the representative bodie off the clergie because the parliament was dissolved. Cited a statute that the kingdome compacted of a Bodie temporall and spiritual, hee cannot doe by the spirit parte more then by the temporall.

"The statute 1 Eliz. Doth declare ecclesiastical Jurisdiction to bee in the crowne and that is by common lawe the sovaignes birthright not by the statute introduced. The statute off *circumspecte agatis* att first by letters patents not a parliament. That was 13 E. 3, after 19 E. 3 an Anuitie[?] maintenable because that noe statute, and consequently could not Binde the subiect being noe act off parliament. The last restraint off 25 [H.] 8 for the contrarie and repugnant canons, etc.

"The canons for making newe praiers and holidaies against the statute of E. 6 that noe others shall bee made. The 12 and 13 canon that lay men shall not exercise eccleasiastical Jurisdiction which is contrarie to the 8th 27 H. 8. The oathe *de Parendo Juri et stando mandatis ecclesiae.* Iff they bee excommunicated they must take this oath. So everie man may bee brought to itt, and altho the Churche bee the congregation off the faithfull, yett they make itt the Churchmen and wee knowe not there commandes, nor they themselves. For the archbishop is trusted to make visitorie articles hath the monopolie off them. 6 H. 6 a statute slipt the howse off commons that preachers without certificate should bee imprisoned ect. This after recalled yett there canons impugne itt." Palmer, ff. 98-99. *Cf.* Northcote, 47.

Mr. Bridgman[16] a Common lawyer alsoe (sonne to Dr. Bridgman Bishop of Chester) argued next touching the same Canons: but his argument was noe great consideration for hee spake soe dubiouslie, sometimes for them and sometimes against them, as it was difficult to conclude anie thing from what hee saied.[17]

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[12] "The question off provinciall canons. These were made before the Conquest by advise of clergie, but never to binde the laitie. Those in Linwood sometymes by writt, sometymes without." Palmer, f. 100.

[13] "20 H. 6, 12. 21 E. 4, 44. The convocation may make constitutions concerning holiedaies and to binde the clergie but not to binde the laitie. They may binde themselves and there owne regularitie by consent." *Ibid.*

[14] "Iff against lawe and Damnable. The ob[jection] off there excommunications to bee against the libertie by reason of Imprisonment. That but consequent but the thing lawfull and then the Imprisonment is but as when a penaltie given the Imprisonment for levying but consequent to, not holds they can binde the clergie But not the laitie but by consequence." *Ibid.*

[15] Keilwey's Reports (180-186), in *Eng. Reports* (1907), LXXII, 356-363.

[16] Orlando Bridgeman, member for Wigan and Solicitor-General to the Prince of Wales.

[17] "Mr. Bridgman. Not endeavor to mainteine the Canons, manie things against Lawe. But *de modo*. 1, The power off making whither they could make them parliament being dissolved. This concernes us in point of conscience. So another waie the oathe of supremacie bindes us to mainteine the ecclesiasticall Jurisdiction united to the crowne. Iff inconvenient may by common consent bee taken awaie. A power before 25 H. 8 to make canons to binde clergie. *De Facto* they did it. As the lawes settled synce Magna Charta. That confirmes liberties off churche. To knowe this looke into customes. They did make wee see in Linwood compiled about H. 6. From 1 H. 6 to 25 H. 8 several constitutions which did reache to clergie. 21 H. 8 a Petition etc. The distinction in matters temporall they had noe power in spirituall they had: This induced the submission off the clergie. That off 25 H. 8 implies they conceaved they had power, but alterd lawe and practise in 3 degrees, cannot treate without license, cannot promulgate without confirmation. But with these qualification they did. 28 H. 8 made canons, concerning Doctrine and politia government ecclesiasticall these were confirmed. 31 H. 8 came the 6 articles. The practise *de facto* and conceived to bee *de jure*, cited 20 H. 6 13. That of fasting and holie daies ecclesiasticall but did Binde laie men to obedience. This *de facto* and conceived to bee *de jure*. The Statute 1 Eliz. cap. 1. That power which exercised by clergie althoughe not lawfullie in respect of their persons was transferred iff noe colour of power was transferred. The difference

f. 63a] Upon Mr. Pyms motion that Sir George Ratclyffe might bee committed to moore safe custodie it was thought fitt hee should bee sent to the gate-howse.

Soe it was resolved upon Question that Sir George Ratclyffe should bee foorthwith committed prisoner to the prison of the Gatehowse.

Ordered that because ther is an information against the saied Sir George Ratcliffe for high treason it was resolved upon question that hee should bee sent prisoner to the gatehowse, and that the Speaker should doe this by his warrant.

Some doubted whether it weere not necessarie that Sir George Ratclyffe should first bee brought to the barre; but that was overruled not to bee absolutelie necessarie.

Then followed many motions about searching the Commissions by which the last synode sate, for it was moved by some that these latter commissions did differ from the former: and soe Mr. Saint John and others weere appointed to search them as an addition to the former Committee and to see what Judges did give ther assent or opinion in that matter: and by whome Commission hath been withdrawen out of the signet office which did enable the clergie to take the new oath with divers other particulars.

Soe it was ordered accordinglie, etc., ordered that they or anie two or three of them should meete etc., this afternoon at 2 of the clocke in the Treasurie chamber and to make report on Monday next.

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upon the statute [*blank*] such power when the thing lawfull in itt selfe is transferred otherwise iff the thinge unlawfull. An instance off a service[?]. 1 Eliz. cap. 2. Lawfull for the Queene or metropolitane to ordeigne such rites and ceremonies as shall bee fitting. The words may seeme to bee individuall to the Queene. 21 Ja. cap. 10 concerning rulers ect. and divers others where extendes to subject. The canons derived out of the Kings absolute power or limited power by 25 H. 8. This iff unlimited may bee restrained.

"As to the assembling. 2 writts one calls to the parliament, that for the dioces, to apeare the daie of the Parliament. Another writt to summon the Archbishop to apeare 13 April another place *ad consentiendum et concludendum.* By this a Synode but had nothing to doe untill the commissions one issued during the parliament, that determined after issue another during pleasure. They remained by the writt in *statu quo* before the parliament was dissolved.

"They have exceeded there Power in that of Subsidies or benevolences. They did this frequently in antient tymes. 2 R. 2, N. 79 a Subsidie by the clergie examined howe [*blank*] A^o 1408 subsidies when noe parliament. This *de facto* then, but not so nowe nor is the lawe so nowe. 2 R. 3 touching the exemption of collections good by grant therfore the proviso not by act off parliament. 21 H. 8 the greate grant without act off parliament. But synce 25 H. 8 and other statutes now united to the crowne, and by the petition of Right aides without assent in parliament contrarie to lawe and so this is.

"The power of granting not. That of chancellor contrarie to 27 H. 8. That they should not excommunicate. Some others contrarie to lawe. As to the premuinire, itt was sayd itt was not in the making off the oath but in executing. A good difference when they have a collective power when not. For this oath there was an express warrant to treate off the oathe. And a commission after to take the oathe. 1 H. 4 N: 70 the parliament R: The commons petitioned that 11 R. 2." Palmer, ff. 101-103.

Post Meridiem.

Wee mett about three of the clock in the afternoone that weere of the Committee for Mr. Prinne and Mr. Burtons petitions and for those which depend upon them.[18]

Mr. Prins counsell did open the cause much after the manner and forme as hee had laied downe in his petition. That his booke called *Histrio-Mastix* was licenced by Mr. Buckler the then Archbishops chaplaine: and freelie sold and published after it was published: and yet shortly after William Noy then Attourney generall preferred an Information against him for it. [*blank*], putt in 29° die Julii a° 9° Caroli.[19]

And soe the verie originall Information it selfe was read to which Mr. Prinnes saied booke called *Histrio-Mastix* was affixed: by which saied information many horrible and great crimes weere laied against the saied Mr. Prinne as if hee had condemned all lawfull sportes and that hee had done it to move sedition and rebellion;[20] and that hee had allowed *Mariana* the Jesuites booke to destroy Kings;[21] and Dr. Laytons booke against order[22] etc. To this answeare I saw the name of William Noy and others subscribed, and Mr. Buckler and others weere also made defendants.

10 die Sept. a°. 9°. Caroli, was the day Mr. Prinnes answeare was sworne unto by him. In the saied answeare, hee plainlie and fullie shewed that hee did onlie gett the same booke licenced a°. 1630,[23] having gathered manye good authorities together out of allowed authors against stage-plaies. Hee sheweth that the saied Mr. Thomas Buckler did peruse the saied booke both before the saied booke was printed and afterwards, and did fullie approve it. That hee had noe intention to offend his Majestie for whose happie raigne hee blesseth God. Hee protests hee had [no] wicked or seditious intents in the publishing of the saied booke: but that hee intended the good of his Majesties subjects. That hee doth not defend but condemme the laiing violent hands upon princes; and hee hath alwaies f. 64a] abhorred that wicked and abominable opinion. Hee confesseth that hee cited a booke of Dr. Laytons but then knew noe exception taken against his person: as hee did alsoe of *Mariana* a Jesuite [book] against stageplaies: in which hee agrees with the orthodox divines. And hee pro-

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[18] D'Ewes's is the only journal where we get a complete account of these committee meetings about Prynne.

[19] D'Ewes is evidently referring to the information preferred by Noy. Prynne was however sentenced by the Star Chamber Feb. 17, 1634, and the information must have been put in before that date.

[20] See *Documents Relating to . . . William Prynne* (*Camden Soc.*, 1877), 2-10.

[21] Johannes Mariana, the Jesuit, had written books against stage plays and his works were therefore condemned as seditious. Prynne's offense was that he had commended Mariana in *Histriomastix*.

[22] *Sion's Plea against Prelacy*. See above, p. 17. For a contemporary summary of the book see *Camden Soc. Misc.* VII.

[23] The book was licensed May 31, 1630, according to Prynne's own statements. See *Documents Relating to . . . William Prynne*, 52.

tests hee had noe disloiall thoughts against his Majestie but if inadvertentlie hee hath offended hee humblie casts himselfe at his Majesties feet, beseeching and imploring his Majesties grace; and humblie besought the Court to bee intercessors for him to his saied Majestie etc.

Mr. Prinne and his counsell John Herne, [*blank*] Brerelie, did by way of admittance allow that individuall booke which was affixed to the saied Information to bee one of those bookes called *Histrio-mastix;* but did not confes it to binde them. Then was the sentence of the starre-chamber read by which the saied Mr. Prinne and some other of the defendants weere condemned and in it almost the whole former proceedings weere sett forth etc.[24] Mr. Prinne to bee prisoner during his life, to pay 5000£ to bee expelled [from] Lincolnes Inne, never to practice the Law; to bee degraded at Oxford, to bee sett on the pillorie at Westminster to have a paper on his head, and ther to loose one of his eares, then to stande on the pillorie in Cheapeside another day, and to have a paper on his head ther alsoe shewing his offence, and ther to loose his other eare; and ther a fire to bee made before him and all the copies of the saied bookes that could bee gotten should bee burnt; etc. And then followed the sentence against the other defendants which are not much to this busines etc.

Then Mr. Prinnes Councell tooke exception first that Mr. Prinne was censured for a booke licenced. 2, for a booke that containes nothing scandalous or offensive in it.

Mr. White moved that in the sentence 3 things are charged upon Mr. Prinne moore then in the Information. 1, That Dr. Goad and Dr. Harris[25] had enformed him that the booke was a seditious booke and advized him not to publish. 2, They charged him with periurie for saiing that hee never brought the booke to bee licenced befor 1632, and yet hee brought it before to Dr. Goad and Dr. Harris. 3, That hee swoare in his answeare that hee had communicated the booke half a yeare before All S[ain]ts 1632, and yet it was not printed till All S[ain]ts 1632.

Mr. Hollis observed that hee was imprisoned in the Tower and not admitted to make his owne defence soe fullie as hee might have done.

Mr. Prinne shewed how in divers particular hee had been imprisoned and disabled to answeare or make his lawfull defence.

And then weere certaine orders of Starre-chamber read and divers disputes and motions made how wee should proceed in the hearing of this busines. The next matter of moment produced was this warrant following.

Starre-chamber February 1, 1632. A warrant subscribed by Coventrie L[ord] Keeper and other Privie Counsellors directed to Sir William Balfore Leiftenant of the Tower of London to take William Prinne into his custodie, and not to suffer accesse to him: and noe cause assigned of his Committment.

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[24] The sentence pronounced against Prynne, Buckner, and Sparks are to be found in *Documents Relating to . . . William Prynne,* 16-28.

[25] *Documents Relating to . . . William Prynne,* 2-3.

An order August 20, (1633) to make him close prisoner because hee did not answeare before being a prisoner before.

f. 65a] I observed that Mr. Prinnes first committment was February 1, 1632, and that was a kinde of close imprisonment; and then the Information came in June following. His counsell could not come to him in the terme time, and in the vacation they weere out of towne; and yet for this impossible default by the order August 20, (1633) hee was made close prisoner. And afterwardes I desired it might bee asked him, whether hee could possiblie draw his answeare till hee had been at his studie and hee answeared not.

Then Dr. Helin being present was demanded whether hee had not gathered passages out of his booke and misinterpreted them.

Dr. Helin excused all malice: and saied that in Hillarie term 1632, before Mr. Prins first Committment hee was called before the Counsell and Mr. Secretarie Coke gave him a booke called *Histrio-Mastix* and charged him in the Kings name to peruse it and to draw out such passages as weere scandalous wheereupon hee did it; and delivered the notes hee had taken being faire written out to Secretarie Coke aforesaied, before the Information was putt in against Mr. Prinne: and did after deliver the foule originall draught to Mr. Attournie Noy.

After manye motions I saied before Dr. Helin that if hee had proceeded with the spirit of Christian Mansuetude hee might have prevented Mr. Prinns punishment by interpreting those places dexterouslie which hee distorted sinisterlie. And I moved farther that some one of Mr. Prins bookes might bee delivered to Dr. Helin to finde out some of those passages hee found before.

Adiourned to this place on Tuesday next at two of the clocke in the afternoone.

December 10. Thursday. 1640.

An act was read for the naturalizing of George Smith[1] the first reading.[2]

Upon Sir Gilbert Gerrards motion others weere added to the Committee in Sir Henry Spillers busines, viz. The Lord Ruthin Mr. Hollis[3] etc.

An act was read for the selling of a certaine mannour or Lordshipp etc., other landes by Thomas Hunt Roger Hunt etc. for the raising of monies to pay detts etc. The mannour of Longcon in the Countie of Stafford etc. the first reading.

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[1] A London merchant. C.J. II, 48.

[2] Peyton (f. 42) gives here the following note on procedure: "Before a Bill of Naturalization bee read the second time the parties must come into the house and take the oathe of Alleagiance and supremancie."

[3] According to the *Journals* (II, 48), seven names were added, but that of Holles is not given.

Sir Robert Crane had libertie to departe for a time[4] into the countrie promising to returne speedilie.

Mr. Noel moved that Mr. Edward Holford might bee called in to make his submission.[5] And the Speaker moved Mr. Warner the Sheriffe of Warwickshire might doe the same.

Mr. Holford was brought in to the barre and did ther upon his knee (his peticion was read hee kneeling) make his submission, acknowledging his sorrow for having wronged a member of this Howse (viz. Sir Arthur Haselrigg).

George Warner Esquire was brought in, and did upon his knee heare his petition read being about 80 yeares old and late sheriffe of Warwickshire; and ther made his submission.

And soe they weere both discharged from ther imprisonment and the Serjeant paying ther fees.

Mr. Glinne made a reporte touching the Committees painestaking that weere appointed to search out the number of Recusants about London and Westminster; and that the Constable of St. Clements parish comming to Arundel Howse to enquire, one William Marsh servant to the Earle of Arundel (whose yonger sonne William is made Lorde Stafford in right of his wife) did twice discourage the saied constable and lastlie threaten him if hee returned either the Earle of Arundels name, the Lord Staffordes or any other of the Earle of Arundels howse.[6]

f. 66a] Upon this ensued divers motions how farre wee might send for the saied William Marsh in respect of the priviledge of the Lordes.

I advized that what was done in the Parliament de a°. 43°. et 44°. Eliz. in the case betweene the Earle of Huntington and Mr. Belgrave a member of this Howse etc., there was a Conference with the Lordes by a spetiall Committee and soe I advized now.[7]

Then was it moved that a warrant should goe from the Speaker for a new writt to bee sent to elect one in Secretarie Windebankes place.[8]

Then was a letter delivered by Mr. Serieant Hide directed to the Assemblie of the High Court of Parliament etc. It was found on Salisburie plaine and delivered to the Mayor of Salisburie and hee sent it to Mr. Serjeant Hide being choosen and returned one of the citizens of that cittie.

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[4] "A sevennight." *Ibid.*

[5] See above, p. 95, n. 8. Richard, not Edward, Holford.

[6] "Mr. Glyn said, That the Constable of the Dutchy liberty in Westminster told him hee was threatned by a servant (Mr. Marshe) of my Lord Marshall's for that hee went about, as hee was commanded, to take notice of such servants of my Lord Marshalls and my Lord Stafford his sonne as hee thought were Papists for that they did never use to come to Church." Peyton, ff. 42-43.

[7] See D'Ewes, *Journals of all the Parliaments during . . . Elizabeth,* 673. The House evidently did not follow D'Ewes's advice, for a notice was sent to Marsh to appear the next morning. Peyton (f. 43) adds "That this intimation was only given him because being a servant to a Lord of the upper house they could nott, without breaking the Priviledges of that house, send for him by warrant."

[8] It was also ordered that a notice be sent to the Secretary's house requiring him to appear the next morning. And it was moved that if he did not come, a message should be sent to the Lords desiring them to move the King for a proclamation against him, to bring him. C.J. II, 48.

After it was delivered to the Speaker ther was much dispute about opening it; which I spake and overruled it shewing each Howse severallie weere the Assemblie in Parliament: etc., *examinatus in pleno Parliamento etc.*, that the Howses never sate together as was saied by the Speaker in the Parliament de a°. 35°. Eliz.[9] but alwaies severall etc. Providence had brought it to us etc., and I doubted not but that if it had been brought to the Lordes first etc. Then when it was begunne to bee read it appeared to bee a light libellous fancie etc. and soe upon the motion of MR. TREASUROUR, Mr. Hollis and five other members went upp into the Committee chamber to peruse it. And soon after they returned and MR. HOLLIS made reporte.[10]

A Committee appointed to consider of the Pyrates of Argiers and Turkish etc. too morrow in the afternoone at two of the clocke in the Starre-chamber. And to consider of all Petitions that shall bee preferred by anye captives ther or in anie other partes of the Turkes dominions, and to consider of some meanes of prevention etc.[11]

Then the order was read by which the debate for the manner of the leviing of the 100,000£ should bee debated this morning.

Then MR. HARBERT the Kings sollicitor made report that the greatest difficultie was whether men should bee rated for all wheere they dwell or in all places, and secondlie whether by way of two subsidies etc.

This fatall question being stirred it was much debated and strong enclination to it.

I spake stronglie that wee should not give subsidies; that it was against the honour and greatnes of this Howse to change ther order etc. A certaine summe the old way in E. 3 time[12] etc.[13] I was not present at the order etc. I see nothing of moment moved to alter it. The difficultie of leviing etc., the shipp-monie and coate and conduct monie, etc. Another objection of searching into mens estates etc. soe in a subsidie. Tis true somewhat is objected that the 100,000£ will faile in the collecting, for that wee may add moore. For the Kings seizing of any parte of 2 subsidies if wee gave them I suspect not that etc., soe I see noe reason to alter but that the Committee goe round to worke and make it readie to etc. The Counsell King James gave in his *Basilicon Doron*[14] to his Majesties blessed brother etc. to bee *fidus depositarius etc.* And I doubt not his Majesties care will bee the same, who is as observant a Prince of the Dictamens of soe wise a Father as ever anie Prince was.

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[9] Sir Edward Coke, then Speaker, declared that the House of Commons was merely the "limb of the House," and that though they sat separately, the two Houses were in reality one. D'Ewes, *Journals of all the Parliaments during . . . Elizabeth*, 515.

[10] The Report was that "it was only fitt to bee burned." Peyton, f. 43.

[11] For the powers and functions of this committee see C.J. II, 48.

[12] Probably a reference to a grant made in 1380 of a tenth and a fifteenth and a half. *Rot. Parl.* III, 75.

[13] Peyton (f. 43) adds: "and the rate by a Land Scott was the old rate."

f. 67a] Then followed divers other speeches some for subsidies some against it.[15]

At last wee fell upon this Question whether wee should putt the Question to resolve the Howse into a Committee.

Then others that stood for subsidies would have had that Question putt: whether wee should alter our order and give two subsidies. And it was long and violentlie debated which Question should bee preferred.

Then was the Question putt whether wee should resolve the Howse into a Committee or not to debate the 100,000£ etc.

And upon the Question the I's and Noes weere soe equall as the Howse was divided upon it: but not tolde, because upon the going out of the Noes, they weere found to bee [the] greatest number.[16]

Resolved upon the Question that the Howse should not bee resolved into a Committee to debate the 100,000£ how it should bee levied; or whether the former order should bee altered.

Then the Howse being sett againe, Mr. Speaker was putting the Question whether wee should give two subsidies or 100,000£, etc.

This was disputed afresh againe and divers spake to it: especiallie Mr. Pymm that wee should not alter our former guift; it being contrarie to all former presidents to alter what wee have done and agreed on. And others alsoe spake verie effectuallie to the same purpose.[17]

I moved to have two subsidies mentioned if wee receded from the first grant of 100,000£ and not to leave a releife by subsidie at large, for then wee may bee surprized and leave a grant *in infinitum.*

Then followed new disputes what question should bee putt, and at last the Question was, whether instead of the 100,000£ formerlie ordered by this Howse to bee granted for the releife of the Northren partes and the Kings armie two subsidies shall bee granted. And the I's carried it.

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[14] A work which James wrote in the autumn of 1598 for the instruction of his son. *Cf.* Gardiner, I, 75.

[15] "Dr. Parry. That it might soe; butt it is then the Antiquated old way and is left off; butt the old way indeed, is the subsidy; because this is the continued old way.

"Sir Thomas Roe. That subsidies have beene given to particular persons and occasions. Charles Brandon Duke of Suffolke had a subsidy for bringing over the Queene.

"Sir John Strangewaies. That Subsidies have beene soe given and treasurers appointed for the expending of it; hee vouched Presidents. 1 Ric. 1, and 11 R. 2." Peyton, f. 43.

[16] For the noes to go out seems a reversal of custom, but, according to the *Journals* (II, 49), "It was declared for a constant rule, that those, that give their votes for the preservation of the orders of the House, should stay in; and those that give their votes otherwise to the introducing of any new matter, or any alteration, should go out." In this case the question was put in the negative, *i.e.,* that the house shall not be resolved into a committee; hence the noes desiring the committee (an alteration of regular procedure) are the ones to go out.

Cf. Peyton, f. 43. Rushworth (IV, 92) mistakes the word *not* for *now.*

[17] D'Ewes adds in cipher: "But all good advice now came too late and the busines was without life or hope."

And soe it was ordered accordinglie as it had been resolved upon the Questione.

Post Meridiem.[18]

Our Committee being a subcommittee for Sir Frederick Hamiltons 4 petitions out of the Grand Committee for Irish affaires failed and was adiourned to Thursday next.

After at the Grand Committee for Irish affaires which sate this afternoone, this subcommittee was dissolved, upon Mr. Reynolds motion and mine and the Grand Committee reassumed the busines againe. And soe it was ordered that Sir Frederick Hamilton should attend the saied Grand Committee on Thursday next with his counsell: and soe the saied Grand Committee having little to doe rose about fowre of the clocke.

December 11th. Friday. 1640.

A motion made by Sir Walter Earle that the writt for the Burgesses of Windesor to bee new elected might bee delivered to the sheriffe of Barkshire before his going out of towne: and soe an order was made accordinglie that the order should bee sent to Mr. Willis.

Sir Thomas Barington preferred a new petition for Mr. Walker in which hee complained that his living was sequestred and that hee was commanded not to preach on certaine texts etc., and upon that it was referred to the former Committee in his busines.[1]

Ordered upon Sir Peter Haimonds motion that Coronel Lundsford being to [be] examined in this Howse and by the Lordes may have libertie to stay in London, to attend that busines being otherwise ordered before to repaire into the Northern parts.

f. 68a] Ordered upon Mr. Rigbies motion that two members of the Committee in Mr. Prinns busines might examine Mr. Collins of Lincolnes Inne for him, that they should.

Mr. Pymme and others preferred three petitions against the uniust proceedings in the high Commission Court; all which weere referred to the Committee in Mr. Prinne and Mr. Burtons busines; and that the saied Committee should search into the uniust proceedings of the Judges and officers of the same Court.[2]

Upon a petition of Joseph Hawes and other marchants preferred by Mr.

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[18] For the minutes of the Committee of Religion on the afternoon of this day, see *Proceedings in Kent, 1640*, 87-89.

[1] George Walker had preferred his other petition on Nov. 30. *Cf. Cal. St. P. Dom. 1640-1641*, 277-278.

[2] The three petitions were from Mr. Allaby, Mr. Sparke, and Mr. Clobrey. C.J. II, 49.

PYMME touching the wrongs done them at sea by the Spaniards; it was referred to the same Committee that was appointed to consider of the Turkish pirates and Argiers; and to enquire what ministers of our state doe receive pensions from forraigne states.

A motion that Mr. Holburne might attend at the upper Howse barre being a member of this Howse in the Earle of Castle Havens busines of great waight with whome hee is of counsell. Some disliked it; but I moved it might bee granted; for the like had once been granted heere in the Earle of Oxfords busines.[3]

Then some motions passed about the manner and forme of drawing upp the Bill of two subsidies which was likelie to have raised a new contention. But it proceeded noe further at this time.

The Speaker related that concerning the complaint made by one Elsing a constable against Edward Marsh servant to the Earle Marshall yesterday: the saied Earle Marshall had sent to him to let him know, and to desire him to signifie to this Howse; that hee did soe much honour and respect it, that though the saied Marsh weere his meniall servant yet hee would noe way protect him, but leave him to the Justice of this Howse. And soe it was ordered hee should bee sent for.

The townes of Malton and Arwartone weere alledged to have ancientlie sent Burgesses;[4] and that the Committee for Priviledges had seen the Records to prove it; and soe it was resolved by the Howse they should send Burgesses againe: and a warrant to goe out to the clarke of the crowne from the Speaker to send out a writt for the election.

Then grew a long and needles dispute about the Burrough of Teuskburie whether onlie the Freemen of the towne or all the inhabitants, should have voice in the election.

I shewed[5] the Statute de aº. 23º. H. 6, Cap. 15,[6] doth expresselie enact that all the citizens in citties and all the Burgesses in Burroughs etc., and the same extent citizens have in citties, have Burgesses in Burroughs; that wee intend free men that are resiant onlie to have voice, though never soe poore. And if wee admitt that Letters Patents may restraine the choice to two or three then *actum est de Comitiis:* and wee shall have such sent as great men will command. For the particular of Teuskburie ther are certaine Hamlets about it which is doubted; I saied if they weere ancientlie of the Burrough they must still have voice else not.

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[3] Probably a reference to Henry de Vere, Earl of Oxford (1593-1625), who was twice imprisoned for words spoken against Buckingham.

[4] Malton had last sent burgesses in 1295, and Northallerton in 1298. One can hardly doubt that Pym had begun his policy of acquiring a secure majority in the Commons in all cases. The close divisions of the following February and later at the time of the Grand Remonstrance were to prove how useful a few extra votes might be.

[5] D'Ewes's explanation which follows was in answer to a request from the committee for the opinion of the house on the question whether "the word Communalitie included all the Inhabitants, because all the Inhabitants they did conceive were incorporated at firste." Peyton, f. 44.

[6] A mistake for cap. 14. *Stat. of the Realm,* II, 340-342.

After which followed divers other disputes how farre Letters Patents might restraine the election to a few, and agreed by all that it was against law: and then what was understood by the worde *Communitas;* and the better opinion enclined that the word *Communitas* extended to all the inhabitants.[7]

Then after long dispute the Question was put and resolved that the matter of Teuksburie should bee framed into a case in writing by a select committee and presented to the Howse, and that they should draw a bill to prevent difference and disorders in Elections for the time to come of which I was one. To meete on Tuesday next in the Checquer Court at two of the clocke in the afternoone.

f. 69a] A petition against the Archbishops Bishops Deanes[8] etc. and ther tyrannicall goverment, which now claime *iure divino* to the dishonour of God and the King etc. This is printed. And a roule of 15,000 names sent in with the peticion, and ther came about 1500 men with it into Westminster hall.

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[7] "Mr. Whitlock said: If the King did incorporate a Burrough, it extended to all the Inhabitants ect. For *esse* the king might incorporate 3 or 4 or a very few the Inconvenience of whiche this house would soone find.

"Mr. Bagshaw said: *Communitas* is a word of Lawe, as, *Communitas Anglorum* is the house of Commons, and nott all the Common people. If I give land to a Towne and *Inhabitantibus,* it is voyde ect. because of the uncertaintie ect.

"Mr. White said: To expound a Charter the best way, is to take all the parts of it together: The Charter hath a clause, to make By-lawes *pro regimine.*

"Sir Gilbert Gerrart. If the word Communalty doe nott expresse all the Inhabitants what other word is there for it ect.

"Mr. Fines. That the Grant is to bee regulated by the Statute, which gives power to Cittizens of Citties, and Burgesses of Burroughs ect.

"Mr. Cage. An Inhabitant cannott bee enforced to bee officer, or answer any thing to the king upon any fine laid on the Corporation for anie contempt, taxe, or other charge.

"Mr. Glyn. Whether the king have power to limitt a Corporation to send Burgesses hee would nott dispute ect. Butt concluded that the more generall the Eleccion was the freer.

"Mr. Maynard. Where Common right gives it, then that is the rule; and liberty by Prescription cannott bee lost, butt by grant it may ect: Inhabitants first incorporated bee thereby Freemen, butt when the charter comes to establish a succession, persons are considered that have Jurisdiction and persons that are in capacitie." Peyton, ff. 44-45.

[8] Presented by Alderman Pennington. For the text of the petition see Rushworth, IV, 93-96. In a letter written to Lady D'Ewes on Dec. 14, D'Ewes makes this comment on the London petition: "On Friday morning last wee entred upon the waightiest matter that ever was yet handled in the House; for there came a petition to us from the Cittie of London . . . desiring, amongst other particulars, that the verie government by Archbishopps and Lord Bishopps in the Church, with all their ceremonies and courts, might be abolished." *Autobiography of D'Ewes,* II, 254. Baillie also refers to this petition. See his *Letters and Journals,* I, 273-275. Townshend (*Diary,* 18) says there were about 10,000 hands to it, Whitelocke says 15,000 (*Memorials,* I, 114). D'Ewes, writing to his wife, in the letter above mentioned, says 15,000.

1. Ministers not daring to speake truth or preach for predestination free grace.
2. Ministers depending on them.
3. Contempt of gentrie and nobilitie.
4. Godlie Ministers thrust out.
5. The suppressing of buiing in Impropriations.
6. The swarming of wicked ministers.
7. The printing hereticall bookes.
8. The swarming of vitious and wicked pamphlets.
9. The restraining of godlie bookes to bee printed etc.
10. The broaching of wicked tenets against the subjects proprieties.[9]

Hence grow all our miseries in Church and Commonwealth wheere almost immumerable calamities in Church and Commonwealth weere sett downe.

Sir Miles Fleetwood spake and saied that wee ought in the first place to consider of Religion as the cheifest pillar of happines: and to desire the maintenance of it, and that if wee did not now looke to it wee weere for ever ruined and undone. Then Mr. Stroud spake somewhat to the same purpose.

I saied that this petition was of great waight and not without presidents of former ages. Heere in the times of poperie such petitions weere preferred in Parliament.[10] In Spaine they have petitioned against the oppressions of the clergie. And in France the Admirall Chastillon[11] that was f. 68b] afterwards massacred at Paris did deliver to Francis the Second King of France in his Counsell chamber upon his knee, a petition preferred in the name of the Protestants of Normandie being 50,000 persons in number: which Petition the saied King though of the Romish religion received verie gratiouslie. For the petition before us it could not bee denied but that ther was much chaffe in it; as well as wheate, but yet like the good husbandman wee should not cast away the wheate with the chaffe but fanne away the one and preserve the other. To speake to all particulars of the petition weere almost infinite. But to the maine thing in it, which is that Archbishops Bishops Deanes etc. should bee whollie abolished, wee ought to proceed with great moderation. For doubtles the goverment of the church of God by godlie zealous and preaching Bishops had been most ancient, and I should reverence such a Bishop in the next degree to a King. But I protested in the presence of God, that though I weere not a profest divine yet I had read somewhat in Divinitie, and could not conceive; but that if matters in Religion had gone on but 20 yeares longer as they had done of late yeares, ther would not in the issue soe much as the verie face of Religion have continued amongst us but that all should have been overwhelmed with idolatrie superstition ignorance profanenes and heresie. As I allowed ancient and godlie Bishopps soe I disliked ther baronies and temporall Honours and imploiments. William the first rent away 100,000£ of yearelie revennue from his crowne to make them barons, and this weere fitt to bee restored againe to the roiall throane which now needed it. For Cardinalls Archbishops and Deanes they weere meerelie created by the Pope; the Archbishops are made by the sending a Pall as weere the Archbishops of Vannes Dole[12] and Tholouse in France, and this Pall is a little shorte peice of wollen stuffe, by which they are created Archbishops. And for ther imploiments in temporall affaires and offices it is directlie against divers Canons and Councels of ther owne. I wished therfore wee might proceede to advize of the saied petition before us with such moderation as his roiall Majestie himselfe might not misinterprett it. For mine parte I concluded, that I came with that loiall and faithfull heart to his Majestie into this Howse, that *Salvo Deo Salva religione et salva libertate* I now was and ever should bee readie to assert and defend all the ancient true and hereditarie rights immunities and prerogatives of his saied Majesties crowne and dignitie, which anie of his roiall progenitors had rightfullie and iustlie enioied before him.

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[9] There are twenty-eight heads of grievances in the full petition.

[10] Probably a reference to the petitions preferred in Henry VIII's time.

[11] An allusion to Gaspard Coligny, Admiral of France. At the Assembly of Notables in 1560 he presented a petition from the Protestants. There were no signatures, but Coligny declared that he could have obtained 50,000 names in Normandy alone.

f. 69a] Then followed divers other speeches[13] all except Mr. Treasurours for the entertaining of the petition.[14] Hee spake that hee feared the consequence of the saied petition. That as hee knew many honest men had been uniustlie called Puritanes soe hee feared some Brownists had a hand in this petition. For they strucke at the alteration of those ecclesiasticall matters which weere established by Parliament: in particular hee saied hee was scandalized at that particular of ther exception at the kneeling at the Communion.[15] And that hee was alsoe scandalized that such a great number of the cittie came into Westminster hall with the same petition. Soe hee desired that either wee would cast out the petition; or onlie handle the lesse offensive parte of it.

First resolved upon the Question; that wee should consider of this petition upon a certaine day.

Secondlie resolved upon Question that wee should consider of this petition on Thursday next.

Thirdlie resolved upon the Question that the names should bee sealed upp by the Speaker and the two Aldermen.[16]

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[12] About Dol and Vannes see the *Catholic Encyclopedia, sub* Vannes and Rennes.

[13] According to Northcote (51-53), three speakers preceded D'Ewes and the Treasurer and eight others followed them.

[14] "Sir Nevill Poole. That many parts of it scandalous." Northcote, 51.

[15] Northcote (52) adds here: "Take care that own divisions bring not worse evils than papists."

[16] Upon motion of Mr. Capel, seconded by Mr. Pym. Northcote, 52.

And soe it was after done in the Howse openlie the Speaker sealing first, and the two Aldermen viz. Alderman Soames and Alderman Pennington next, which two last sealed cheifelie upon my motion.

f. 70a] Mr. Pymm moved that hee was sent for this morning by some of the Lordes Commissioners of England to Sir Abraham Williams howse in Westminster wheere weere alsoe some of the Lordes Commissioners of Scotland: wheere they tolde him that they had latelie received letters from the Scottish armie, declaring that noe monie was yet come to ther releife; that they weere in great distresse the Northren partes paiing anye thing slowlie in; and that the verie cloathes of many persons weere ragged and worne out. They therfore desired the Howse to advize of some meanes that the other 30,000£ might bee speedilie sent for the reliefe of the Northern partes: and too morrow morning at nine of the clocke was appointed for the debate of it.

Post meridiem.

At the Committee touching Shipp-monie etc. wee mett about three of the clocke in the afternoone: and wee first fell into consideration of the petition of Watford in Hartfordshire against the proceedings of one Pruddon a servant of Mr. Coningsbies sheriffe ther in the yeare 1638, and appointed him a spetiall bailif. Manie notorious outrages committed in the distraining for shipp-monie, weere proved against the saied Pruddon and one Stow upon his distraining the goods of the saied Nathaniel Manistre and other inhabitants in the saied towne: by distraining and selling goods of double value the monie demanded without making anie restitution: and dragged some of them violentlie to prison. And that the verie warrant sent from Mr. Coningsbie and signed by him did give authoritie to the saied Pruddon and Stow either to distraine the saied inhabitants of Watforde, or to imprison them.

I moved divers times to the order of the Committee that none might aske anye questions but Sir Edward Hungerford that sate in the chaire. And secondlie that all that weere at the Committee might bee bare except such as weere members of the Howse. At last the sence and resolution of the Committee was that a warrant should bee sent downe into Hartfordshire to bring upp the saied Pruddon and Stow, and to cause them to bring upp ther warrants with them.

Sir Francis Seymour complained that about summer was twelvemonth Sir Edward Baynton[17] came to him having been sheriffe of Wilteshire the yeare before and demanded 5£ and having first complaine[d] to the Lordes of Counsell of him; and therupon hee was sent for before the Counsell. And being dismissed after his returne home the saied Sir Edward Bayntone came to his howse, and hee and his man did distraine his horse in the pasture for it: being then out of his shreivaltie and having noe warrant from

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[17] Probably the Sir Edward Baynton who had been a member for Wiltshire.

Mr. Duke at that time sheriffe of Wiltshire; but onlie as the saied Sir Edward Bayntone pretended a warrant from the Lordes of the Counsell.

It was resolved by the Committee that this should bee reported to the Howse too morrow morning as Sir Francis Seymour had sett it foorth.

Then weere divers petitions preferred; but I staied not the reading above one of noe great moment.

Dec[ember] 12. Saturday. 1640.

A Committee appointed to consider of all petitions that shall bee brought in to what committee it is fitt to referre them.

Mr. Speaker saied the King had sent for him, and was pleased to tell him hee would not pricke anie member of this Howse to bee sheriffe; that therfore if Mr. Hobbie had received his patent before election hee should not stand sheriffe; but if hee had [not] received his Patent before his election.[1]

Now the Howse having ordered that a writt should goe out for the election of new Windsor it is doubted whether the writt for election should goe out to Mr. Purferey the old sheriffe who hath not yet his Patent of discharge or to the new sheriffe: and agreed the writt should bee sent to the old sheriffe till hee had his writt of discharge. And soe it was ordered.

f. 71a] The Bill or Act read for the confirmation of the Queene Henrietta Maria's iointure which was sent from the Lordes read the first time.[2]

Mr. King reported from the Committee for Argiers and Turkish Pyrates; that they weere tenn shipps of Turkish Pyrates now lay upon the Westerne coasts: and the Committee desired that his Majestie might bee humblie moved to send two of his shipps of warre into those partes to scowre the seas: and to enforme his Majestie that they have taken three or fowre shipps the last weeke. Then Sir Henrie Vane, the Treasurour of the Kings houshold was desired to move his Majestie in it and undertooke it.[3]

Then wee fell upon the great busines for sending away the rest of the 100,000£ into the North of which 50,000£ was gone.[4]

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[1] "That hee [the King] pricked Mr. Hobby Sheriffe, butt if hee were before his Patent sealed up a Burgesse of the Parliament, then hee would prick another; butt if hee were nott then hee should continue sheriffe. Sir Thomas Witherington said, That Mr. Hobby was nott a Burgesse because hee never sate in the house upon the first returne, his Eleccion being then in question and a new writt went for a new Eleccion: which writt comming to bee executed upon Monday: Mr. Hobby was then indeed elected, when hee had beene the Sonday before pricked Sheriffe." Peyton, ff. 45-46.

This disputed election in Marlow Magna is very fully discussed in the opening pages of the Verney *Notes*. *Cf.* Whitelocke, *Memorials,* I, 109; Northcote, 53.

[2] The Speaker was desired to come early on Tuesday morning for a second reading of the bill. C.J. II, 50.

[3] Captain Rainborow went with Vane. C.J. II, 50.

[4] D'Ewes has crossed out the words: "It was referred to the Committee for the regulating of the Northren Armies to consider of it." According to Northcote (54), Hotham and Pennington spake to the matter and Mr. Sollicitor moved that an order be given to the committee to attend this afternoon about it. "Referred to Committee to provide for garrisons and to consider the state of them." *Ibid.,* 54-55.

Mr. Treasurour made report that both his Majestie and the Lord Generall weere willing with all convenient time and speede to remove all popish officers out of the garrisons and English armie in the Northren parts.

Ordered that the Committee for regulating the Northren affaires to consider of the payment of the garrisons etc. and Mr. Treasurour to bee added to the Committee and at two of the clocke on Monday next in the Court of Wardes, the saied Committee is to meete againe.

Then the Howse fell into dispute how the other 50,000£ should bee advanced to bee sent away into the North: and Mr. Harrison saied hee would rather lend without securitie then that the Cittie should faile.[5]

Soe ther passed new motions about such as should bee bound; and it appeared that many that offered to bee bound etc. for an 100,000£ if that bill had passed would not now bee bound for two subsidies, etc.

A petition of Henrie Browne the foreman of a iurie at Hartforde petitioned against Sir Robert Barclay knight one of the Justices of the Kings bench, that hee having presented the removing of the Communion table in All Saints church in Hartford etc., and setting it Altar-wise, etc., that hee caused him to rend the presentment and to tread it under his feete; and then imprisoned him; and reviled him, and tolde him his presentment was a scandalous paper against the Church and State. That it was against law; and that hee knew noe law that did order or regulate the Communion table.

Ordered this busines should bee referred to the Committee appointed to draw upp the Chardges against the Lorde Keeper and Judges, and Mr. Wingat and Mr. Waller weere added to that Committee.[6]

A petition preferred by divers inhabitants of the towne and parish of Beckington in Somersetshire, shewing how the churchwardens of that parish named James Wheeler and George Wrie, in 1635 [were] excommunicated for not setting upp the Communion table by William Bishop of Bath and Wells[7] altar-wise; which stood in the Chancell fairelie encompassed with wainscot.

In 1636, Thomas Homes and Thomas Dunnings weere againe commanded to alter it, and being with the Bishop they tolde him they thought they could not answer it to a Parliament: what tell you mee saied hee ieering of a Parliament, when the skie falls wee shall catch larkes. The King hath whollie referred the matters of the Church to his Bishops and other wordes. They onlie endeavoured to hinder the Parson and his workmen to remove etc.

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[5] A meager account of this debate will be found in Northcote, 55.

[6] The *Journals* (II, 50) name two other members added to the committee. Northcote (55-56) gives some discussion of the petition. Peyton (f. 46) says: "The sense of the house here was; That the Judges did concurre and cooperate with the Bishops to establish a government agreed on betweene them."

[7] Dr. William Piers or Pierce, Bishop of Bath and Wells since 1632. For an account of the complaints against the Bishop see the Articles against him. *S. and P.* 318-320. See also Prynne, *Canterburies Doome* (1646), 27, 93, 97-106, 134-141; Heylyn, *Cyprianus Anglicus* (1671), 215, 272, 294.

At Lent Assises 1636, at Charde the Lord Finch now Lorde Keeper setting in the Nisi prius Court came from thence into the other court etc. riot etc., calling it a Switzerland commotion or a Waldensian insurrection; and that hee would not suffer the grand iurie to departe till they had found the riot.

Then later by the procurement of the Archbishop the saied Lorde Finch at the next Assizes refuzed the iurie the sheriffe had impanelled, and put on a iurie of yong ignorant men hee ther called out; and forced them that they should finde the riot meerelie upon the testimonie of the parson of Beckingtone aforesaied a most wicked popish fellow; and laied above 2,000£ fine upon them to ther utter undoing and imprisoned them for six months.[8]

f. 72a] Soe it was ordered that the saied Alexander Huet[9] the wicked parson of Beckington and the rest that assisted him to cutt upp the wainscott about the Communion table and to prosecute the saied Churchwardens should bee sent for as delinquents, etc.

And this and some other petitions to bee preferred against the Bishop of Bath and Wells weere referred to a select Committee etc., and soe ordered; to meete Tuesday at two of the clocke in the Exchecquer court.

The petition of George Woodcocke read by which hee accused one Richard Grinberie[10] a noted recusant for saying that the petition which the Lordes carried into the North was an insolent petition and did savour of partaking with the Scotts. 2dly hee disliked the Kings undertaking and covenanting for Religion, for hee would rather bee hanged then take such an oath. 3. That hee knew thousands in this kingdome both of the clergie and others that weere of his mind. Ordered that hee should bee sent for presentlie by the Serjeant as a delinquent.

Post meridiem.

Pomeridiano apud magnos Delegatos in re religionis in ipsis Comitiorum aedibus, se iudicio sistebat Dr. Layfeldus rector Ecclesiae omnium sanctorum Birchen gravium postulatus criminum; se ullas imagines nisi ad fontisterium erexisse negavit, de adorationibus et concionibus reus ex maxima parte peractus.

Tum in delegatorum cameram dictam ego, Guido Palmes miles Mr. Rouse et alii recessimus; ubi Diarium clerici Domus Communis uti delegati fuimus, ut illus[t]eremus: ibi acta aliquot dierum ante quod ipse ad Comitia accesseram lustrabamus: aliqua induximus aliqua addidimus et caetera

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[8] "Fined petitioners 2500, and six months' imprisonment for advising parson not to remove table and £100 charg[es] to parson." Northcote, 57.

[9] Huish. C.J. II, 50; Northcote, 56.

[10] Grimbery. C.J. II, 50.

approbavimus. Omnia ad nos legit clericus; et mihi hoc opus maxime placuit; incepimus horam circiter quartam desiimus circiter sextam.

December 14. Monday. 1640.[1]

An act for the naturalizing of William Fisher and Peter Herne marchants read 1ª vice.[2]

An act to enable Sir Gilbert Wells sonne and heire apparent of Thomas Wells and Mary the wife of the saied Sir Gilbert etc., to sell landes to pay ther detts.

Mr. Reynolds had libertie granted him to repaire into the cuntrie for three weekes to gett readie witnesses in a case now in agitation before the Grand Committee of greivances. But the Speaker was enforced to putt it to the question because some cried No; and soe it was resolved upon the Question.

Sir Arthur Haselrigg moved that the Committee appointed to consider of the power of the Starre-chamber and Deputie Leiftenants of which I was might consider of the excesse of Deputie Leiftenants in Leicestershire Sir Hugh Cholmelie and Sir Philip Stapleton added to this Committee. And they weere to consider the misdeameanors of the Deputie Leiftenants in all other Counties.

And this was ordered accordinglie.

And then was a petition read preferred[3] against one Sir William Russell a Deputie Leiftenant in Worstersheire; for his horrible oppressions and changing souldiers, and taking bribes as a Deputie Leiftenant, and altering rates and oppressing whome hee pleased and easing whome hee pleased and in the meane time paiing nothing for his owne estate, being 1500£ per annum.

f. 73a] Serjeant Wild spake long to little purpose in defence of Sir William Russell and after divers interruptions etc., I spake that though everie member ought to have free libertie of speech yet if any upon hearing spake impertinentlie as the gentleman now did it was ever in the power of the Howse to desire them to forbeare, and yet Serjeant Wild would goe on; and then upon Sir Walter Earles motion seconding mine hee was bidd hold his peace and soe hee did.

Then Sir Henry Harbert spake against Sir William Harbert[4] and refuted all that had been spoaken on his behalfe by Serjeant Wilde.

Soe the order was made full and perfect and read and all that would come to have voice. To meete too morrow at 2 of the clocke in the afternoone in the Dutchie Court.

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[1] For this whole week, Dec. 14-19, Northcote's dating is wrong. The 14th he gives under "December 13th," then under the "14th" he gives the proceedings for the 15th, 16th, and 17th. The 18th and 19th follow under "15 December."

[2] John Fisher and Peter Heeren. C.J. II, 50.

[3] By Hazelwood. Northcote, 57-58.

[4] D'Ewes has written Harbert for Russell, but obviously by a slip of the pen.

Mr. St. John moved to consider of the Kings revenue and to make reparation for Monopolies shipp-monie and other things taken away.

I shewed that I did not rise upp to oppose but to further the two last motions;[5] I well knew what meanes the Kings of England ancientlie used to repaire ther revenue, and should tender a veiw of them. The sea itselfe etc. In France after the death of Henry the great the revenue of the Crowne was found to bee 26,000 millions (I mistooke it for 2600 millions) and the expences weere moore then the income, and soe no helpe till a cutting offe of the unnecessarie expences. Soe in H. 6 time the Lorde Cromwell being Lord Treasurour; brought in a list into the Parliament of all the Kings expences and Revenues.[6] And the Howse restored to him a full and faire revenue etc. And soe I assured myselfe should wee shew as much regard to his Majestie as ever loiall and loving subjects ever did to any King of England.

Then divers[7] spake to particular heads: some about the compounding for the Court of Wardes, and others about the Customes and the like.

Sir Henry Fane Treasurour of his Majesties houshold shewed that his Majestie would bee verie ioyfull to heare of our care of his revenue and our desire to make him able to subsist like a King. And hee did not doubt but that his Majestie would bee verie willing that wee should consider both of his Revenues and expences, which hee would bee readie to further to his uttermost in his owne particular. And soe some other speeches of little moment passed in this particular.

Then was some dispute raised about the charge to bee sent upp against the Lorde Keeper and the Judges: and that the Committee might have power to examine by some of ther members the Judges or anye others.[8]

Then was the order read, made on Wednesday December 9 last past concerning the Committee appointed to examine the proceedings of the last synod and ther new Canons.

Mr. Whistler saied that they had searched all particular Commissions and matters belonging to the late synod excepting only the former writts of summons. First for the oath hee saied it was a most wicked oath, and the etc., is not bee patternd in the oathes of Jewes Turkes or heathens. Hee added that it weere in vaine to take away some of these Canons and not to take away all: or to leave them a power to make worse. And for that clause in these canons that the Archbishop should have power after 3 yeares to make what articles hee would.[9]

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[5] The other motion referred to was that of Pym, "That a noble person nere the Chayre might bee intreated to lett the king know the affections of this house towards him, and to desire leave of him to looke into the revenues of his crowne and his expences." Peyton, f. 47.

[6] In 1433 Ralph, Lord Cromwell, petitioned parliament to take into consideration the state of the revenues of the Crown and the disbursements. *Rot. Parl.* IV, 432. Northcote (59) mistakenly makes Pym cite the precedent and cite it for Henry VIII's time.

[7] Pye, Hyde, Whistler, and Selden. Northcote, 59-60.

[8] Northcote (60) mentions speeches of Strode and Hotham; Peyton (f. 47) records a point of procedure brought out by Pym.

f. 74a] Hee added that hee held clearelie that within the Statute de a°. 25 H. 8, they could not make Canons to binde the subjects of England, no not the clergie. The Statute is whollie restrictive. And had they power to make what Canons they would: it weere in vaine for us to make anie statutes heere. Nor is ther anie proviso in the statute to bind us. Nay ther canons cannot binde themselves, if they bee not conformable to law, and to the Kings prerogative. And such Canons as are to bind us ought to bee confirmed by law.[10] Then hee shewed that the second Commission to make them a synod did cleane contradict the first by which they weere summoned to the convocation. And this was granted with a *Non obstante* anye law statute or constitution to the contrarie, which shewes they had little respect to the Statute de a°. 25° H. 8.[11] Then hee shewed that these Canons weere against the Statute de a°. 1°. Eliz. cap. 1.[12] For that onlie gave to the Crowne what the Pope had usurped from it. But God forbidd wee should thinke, that by that statute the Popes unlawfull power was given to the Pope.[13] Now for ther getting the Kings Confirmation, that is an aggravation of ther offence, because: they would lay all the errors upon the King. The Kings authoritie shall never excuse a mans wicked act; but ought rather to aggravate it. Many things are authorised alsoe by act of

[9] "A papall infallibilitie for 3 yeares; one off the canons that hee shall [have] power to make canons for 3 yeares; The purblinde clergie off Yorke to swallow this; and this but a probationer that after itt might bee inlarged. The King purposelie left out. A proclamation 1637; whereby they intended to take from him ecclesiasticall Jurisdiction." Palmer, f. 106.

[10] "1 That they have noe power to make canons to Binde, and these doe not binde themselves; before the statute the cases cited 7 H. 8 Standishes case, Hunn in the Lollards tower strangled: hee that strangled him called in question being a clergie man they preached excommunication against those were off opinione. Dr. Standishs question in the universitie That these canons *non ligant nisi consentientes*. The statute 25 H. 8 ca. 21 none Binde but what were made and receaved by custome; Never bounde but by consent. 25 H. 8 gives noe newe power but is a restraint. It is negative doth not implie an affirmative noe more then because I will not give Black horse or graie therfore doe give my baie.

"Ob[jection] 28 H. 8. A grant by clergie: and not confirmed. I have searched the record and doe not finde the King had them.

"The canons in initio King James though not by parliament yett good and have beene admitted by consent. The proviso leaves noe power to make canons to Binde one not themselves althoughe confirmed by King iff against his prerogative." Palmer, ff. 106-107.

[11] "The 2d commission recites 25 H. 8 but gives them power notwithst[anding] any statute and yet a proviso itt shall not bee contrarie to the ceremonies off the churche. Ob[jection]: supported by prerogative which the King had by the statute 21 cap. 13 wherby power given to the King to despence." Palmer, f. 107.

[12] *Stat. of the Realm*, IV, Pt. i, 350-355.

[13] "That given to the Queene gives noe more then was before which is externall power, but gave not all that the pope *de facto* did but restored that which was usurped. Another statute 1 Eliz. cap. 2 gives power to the metropolitan to continue untill otherwise ordered. And shee did order by Injunctions. No complaint of disorder by ceremonies." Palmer, f. 107.

Parliament, which being unlawfullie pursued are void; as the verie summons to Parliament, and the like. And soe concluded that all the new canons were void first, because they weere against law; secondly, because the second Commission gave them no authoritie to make them.[14]

Sir Thomas Withrington a common lawyer alsoe spake first to the Canons. 2dly to the 2d Commission by which the first Commission was revoked. And 3dly whether such Canons as these new ones shall binde.[15] 1, Hee held that Canons made in a Convocation did not binde: for 1, they must binde as they are agreeable to law before setled: and then they binde not as Canons but by reason of the law that bound before. Though some Canons did formerlie binde, yet all our yeare bookes shew that those Canons did not binde the laitie, but onlie the laitie [clergy].[16] But 2dly these new Canons are void by reason of the new Commission: for by the Parliament they had a relative power whilest they weere a convocation; but the Parliament being dissolved they weere meere Commissioners and private men by this new Commission; and soe cannot make Canons to binde either Clergie or laitie, for ther publike power is as they weere a representative bodie. And 3dly these new Canons are of most others most unlawfull. In the first Canon they have medled with all our Liberties Courts and lawes, and taught new doctrine concerning the Prerogative,[17] and with matters they have nothing to intermeddle in. And soe hee instanced in divers other Canons, to bee unlawfull and void. And in many parts of them directlie to crosse Magna Charta. Nay for the wicked oath all ministers that should out of Conscience have refused had been undone. It was moved by one (viz. Dr. Edon) that if anie of the Canons weere good wee should allow them: but hee thought that they weere all naught and all to bee contemned; and hee hoped ther buriall would bee moore honorable then ther birth.

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[14] "Conclude att common lawe noe power to Binde, nor by 25, nor other statutes. Before 25 Statute clergie might bynd themselves but iff by the first writt itt is onelie during Parliament. By other writt they must call *totum clerum.* By the 1 writt they may consent to the parliament by the 2d *propter defensionem; et rem necnom personam." Ibid.*

[15] Northcote (61) gives a much clearer introduction.

[16] "And 1st althoughe by Kings writt and license and confirmation yet shall not binde, for either as lawe before or introductive. Itt as lawe before then not *de novo.* Itt as newe yet cannot Binde. Upon the summons 1603 the clerke to bee elected by them yet resolved a custome may be for the parishoners. [Peyton (f. 47) makes this point clearer: "That Canons made by the Convocation without assent in Parliament doe not bind the Laitie. Prooved: out of the Canons 1603. There a Canon appoints the Clerke to bee chosen by the Parson, and hee is called the Canon Clerke, and yett in some places the Custome is the Vestry-men choose the clerke and then the Parson's clerke shall bee voyde, and if they have nott power over a poore Parish much lesse over the whole Laitie."]

"Ob[jection]: The constant practise for the clergie to make Canons. But denied it was the practise, or yet to binde is Right. 19 H. 6, 21 E. 4, none say shall binde the laitie. 25 H. 8 gives noe power." Palmer, f. 108.

[17] "1 canon for regall power entrenched upon all highe courts to declare the prerogative." Palmer, f. 108.

Sir William Strickland compared the late Synod to an unlawfull conventicle, in which they endeavoured to doe two things. 1, to sow sedition between the King and his people; and 2dly, to sow false Doctrine.

Sir Francis Seymour saied this Holy Synod had been a hollow-hearted synod; had endeavoured to thrust religion and all godlie ministers out of the Church under pretence of going against poperie. Hee wished therfore these Canons might bee burnt by the Common hangman: to the makers hee was moore charitable, and wished ther reformation not ther ruine. And soe desired the Question might bee putt.

f. 75a] **Mr. Pymme** moved that wee should onlie vote the illegalitie of the Canons, and leave the burning of them and the punishment of the makers to the Lordes when wee shall have transmitted them upp.

Then divers spake to put it to the Question,[18] and Mr. Holburne spake to deferre it.

And after others I saied that I wished the Question might bee putt notwithstanding any thing had been saied against it, for if a man should goe with a lanterne and candle at noone day as Diogenes did to find an honest man in Athens, hee would scarce bee able to find any thing good amongst them. I durst averre that nothing of this kinde had ever been soe solemmlie and long debated in Parliament, that noe exception could bee against the Justice and the proceedings of this Howse. It was not soe used in former times for in Rot. Parl. de a°. 6°. R. 2, n°. 52°.[19] The subject did not onlie condemme Canons but a statute the clergie had formerlie gotten to passe in Parliament; and complained to the King of the subtletie craft and malice of the clergie. And soe I desired wee might putt it to the Question now for damning these new Canons; and to morrow dispute the craft of them that made them.

Then **Mr. Holburne** desired to have till too morrow to speake in the defence of the new Canons.[20]

And upon this followed a new and a long dispute whether wee should not deferre the arguing of them or not. After many disputes **Mr. Perd** shewed that this day was appointed peremptorie to vote the illegalitie of the Canons.

Ordered peremptorie to speake to the new Canons too morrow and then it shall receive a finall determination.

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[18] It was possibly at this point that Sir Edward Dering made a set speech. See *S. and P.* 82-96 (really three pages). For a much longer version, see Nalson, I, 667-671, and Rushworth, IV, 100-104. For another version, brief and slightly variant, see *Cal. St. P. Dom. 1640-1641*, 294-295.

It is a curious circumstance that neither Peyton, Northcote, nor Palmer (who was especially interested in the questions involved) mentions this speech. May Dering have printed among his speeches one that was never delivered?

[19] N°. 53. *Rot. Parl.* III, 141.

[20] For this debate *cf.* Northcote, 62-63.

Post Meridiem

I was at first at the Grand Committee for religion and ther it was reported from a subcommittee that when Mr. Henry Wilkenson a bachelor of Divinitie when some yeares since hee came to receave holy orders at the Bishop of Oxfords hands, hee [was] put over to one Mr. Fulham to examine him: who asked him onlie certaine new ensnaring questions touching matters of bowing to altars at the name of Jesus and the like: and because hee excused himselfe from answearing to them; hee was suspected not to bee of ther partie, and soe refused to admitt them. It was found alsoe by the saied Committee that the saied Mr. Wilkenson had been latelie suspended by the Vice-chancellour of Oxford for an honest sermon ther preached; and that all the exceptions the saied vice-chancellour tooke against the saied sermon weere frivolous and without ground and that therfore his suspension was uniust: and soe it was thought fitt to send for the saied vicechancellor to answeare the wrong done: and to free the saied Mr. Wilkenson from the saied suspension.

As this was in resolving I went out of the House of Commons wheere the saied Grand Committee sate into the Exchecquer-chamber wheere I was of a select Committee touching the Forrest busines. The Essex busines touching the new forrest ther found in October a°. 10°. Caroli was in agitation when I came in. Ther it was proved that the iurie impanelled to find the new forrest weere all within the bounds of the olde Forrest called Waltham forrest: as was witnessed by those which weere of the saied iurie. And that Sir John Finch now Lorde Keeper although the Earle of Warwicke tolde him they weere not provided to answeare it, did command the iurie to find a verdict for the King: although in ther consciences they weere altogether unsatisfied to find it forrest: suppliing then the place of Attornie generall in Mr. Noyes place, and that hee would bring them into the Starre-chamber if they did not finde it: but that then Sir John Trever one of the barons of the Exchecquer stood upp and saied hee hoped it should not prove a starre-chamber busines.[21]

f. 76a] They weere further shewed certaine Rolls de a°. 20°. E. 1, and de a°. 17°. E. 2 of the perambulation of the forrest. And that the saied Sir John Finch would not suffer them to peruse or see the saied Records, but used threatning speeches to them. Sir William Roe and Mr. Lee men of qualitie weere reiected from being of the iurie because they weere thought to stand to firmelie for ther cuntrie. And that a particular fine of 20£ was sett upon one Mr. Searle but for desiring to produce a copie of King Johns charter. The Earle of Warwicke desired of Sir John Finch that the cuntrie might not bee surprized. And hee answeared him. My Lord yow have been at sea and know if yow have your enemie under the locke (that is under decke) yow will hold him ther, and soe will wee the cuntrie for the King. After this betweene October a°. 10° Caroli and Aprill a°. 11mo. Caroli Sir John Finch was made Lorde Cheife Justice of the Kings bench. And in Aprill aforesaied was the second sitting, when Finch sate as a Judge and then the cuntrie had petitioned the King, had a gratious answear from him, and expected iustice: and had ther traverses readie, and demanded iustice and a sight of the Records at the second hearing. But all was denied and refused although ther weere still and had been purleiwes for time out of mind of the bounds of the old forrest and a ranger which are strong presumptions that ther could bee noe new forrest. And in Oct. a°. 10°. Caroli Sir John Finch saied in Sir William Roes hearing, that before too morrow morning hee would have everie foote of the Countie of Essex found to bee forrest from Stane streete to Catway bridge. And that upon this uniust iudgment in Apr. a°. 11mo. Caroli gotten surreptitiouslie, still is continued the Eire or Forrest Court by Commission formerlie granted to the Earle of Holland the Justice in Eire.

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[21] In the Introduction to *Cal. St. P. Dom. 1634-1635*, xxxiii-xxxvi, is a letter written by Warwick the day after the proceedings here described. His account corresponds closely to the account given to this committee.

This Committee adiourned to this place on Friday next at 2 of the clocke in the afternoone.

December 15. Tuesday. 1640.

William Bullocke petitioned the Howse that being commanded to attend this Howse and to bring in his patent this afternoone to the Committee about the Lights on the Sea-coasts, and being commanded to attend before the Lorde Keeper this afternoone alsoe, the Howse agreed hee should attend heere and not ther.

John Burdet was called in and standing at the barre witnessed that Serjeant Maior Yore[1] with certaine Musketiers had violentlie levied monie in Yorkeshire, by vertue of a warrant under Sir William Pennimans hand a colonell of a Regiment in the English armie in the North. The circumstances of his threatning language and violent proceedings did much aggravate the offence.

Sir William Pennyman stood upp and first for Mr. Yore being a captaine (alsoe as well as his Serjeant Maior) hee saied if hee had done amisse hee wisht suffer for it. For his warrant hee confessed it might perhapps bee illegall; but hee excused it by the law of necessitie[2] and nature, in respect the Scotts weere advanced to the verie skirts of Yorkeshire; and soe if hee had erred hee saied, hee had rather fall under the mercie of this Howse then under the contribution of the Scotts.

Sir Hugh Cholmeley answeared all that Sir W[illiam] P[ennyman] alledged in excuse of himselfe and shewed that all things weere setled when this warrant was granted for the generall contribution of Yorkeshire was setled; and soe noe necessitie.[3]

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[1] "Yeoward" in Northcote (63) and "Yoward" in the *Journals* (II, 51). Rushworth (IV, 99) calls him "Captain Yoward, an officer in . . . Pennyman's regiment."

[2] An early plea—though not the first—of "military necessity."

Then SIR WILLIAM PENNYMAN began to replie; but SIR WALTER EARLE saied it was against the orders of the Howse for Pennyman being questioned as a delinquent to replie, but that hee ought rather to withdraw himselfe. MR. PYMME saied hee thought being onlie matter of fact in question hee might sitt still.[4]

MR. PERD wished it might bee referred to the Committee touching Lord Leiftenants and Deputie Leiftenants etc., and soe it was.

f. 77a] A petition of James Malevrer[5] and Thomas Mayser[6] about ther exceeding losses and wrongs susteined for not taking the order of knighthood although they sought it.

Then MR. HOLBURNE[7] beganne according to yesterdaies order to argue for the Canons. 1, Hee proposed the question whether the convocation with the roiall assent might make Canons to binde. 2, whether the late Commission did give suffitient power to a synod. 3, whether these new canons weere not against law. For the first hee held stronglie that such canons made in the Convocation Howse, and confirmed by roiall assent being not directlie against law did binde, for else the power given them by the statute de a°. 25 H. 8, c. [19], weere of noe use or force. Hee spake much of the Churches power to binde in former canons, although never anie one weere confirmed by act of Parliament. Since the statute de a°. 25 H. 8, [c. 19] the same power is given to the convocation howse which they ever had before. And this hee saied did appeare by the verie debate of that act before it passed. Since that Act divers Canons have been made in H. 8, E. 6, Queene Elizabeth and King James his time which did binde and never confirmed by anye act of Parliament. And surelie the Church ought to bee governed by it selfe, and lay men not to intermeddle in it. Hee agreed that such Canons as weere directlie against law weer void; but such as constitute indifferent things are not against law but ought to binde. Then hee shewed that in H. 4 time ther was a Convocation without a Parliament and that it made Canons which did binde. Then if wee bee of the Church the Canons must bind us; which bindes all that are not out of the church. Hee acknowledged that the Convocation assembled with the Parliament is a dead bodie if that bee dissolved. But then the King may by a new commission make them a living bodie again. Then hee came to the second point to discusse what this new Commission did worke, and for that hee conceived the Kings power was the same in the one and in the other. And soe hee came to iustifie the oath and the new Canons, and saied if they had power to make canons, they had power to ratifie the observation of them by an oath. Hee instanced in divers oaths that had been made without authoritie of Parliament (many being verie dangerous examples).[8]

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[3] Northcote (63-64) gives a fuller account of Pennyman's defense and Cholmeley's answer.

[4] "That for matter of fact the party may speak, but for matter of judgment he is to withdraw." Northcote, 64.

[5] James Maleverer of Arncliffe, Yorkshire, was involved in 1633 in resistance to compounding for knighthood. See Rushworth, II, 216.

[6] Moiser. C.J. II, 51.

[7] Robert Holborne, an eminent lawyer of Lincoln's Inn, and one of Hampden's counsel in the ship money case.

Holborne's and St. John's speeches that follow had been scheduled for this day. On the preceding day the Commons had ordered that the debate on canons be postponed until the next morning "for all that will to speak unto them." D'Ewes in a letter to his wife, writing on the 14th (*Autobiography and Correspondence of . . . D'Ewes*, II, 255), throws light upon this order: "This Monday morning wee had the Canons again argued, and weere just upon voting the illegalitie of them . . . when two of the House desired to speake for them tomorrow."

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[8] "Mr. Holborn; will balance himself equallie betwene both churche and commonwealth as *servus ecclesiae* so *filius reipublicae.* The generall question whither canons good in lawe. 1 *respectu constituentis,* whither they may make canons to Binde. 2ly whither after the Parliament dissolved. Another question *respectu rerum constitutarum.* For by 25 H. 8 there is a proviso so as not contrarie etc. *Ad* 1um that a convocation without consent in parliament can not make canons to Binde subiect contrarie to lawe for they subiect and bounde to bee obedient to lawes. 19 E. 3. *Q[uod] non admisit.* A canon against lawe doth not Binde. 10 H. 7, 17. 34 H. 6, 39. So upon the statute of Merton to legitimate a Bastardeisne. None can binde against lawe.

"But a further question off canons *quoad mores,* and itt is in power of convocation to make such canons to Binde with the roiall assent. The canons Foreine and iff not receaved or refused doe not Binde; iff disused for some yeares then the churches connivence doth dispence. In generall canons doe not Binde where not receaved or disobeied. So in Provintiall canons in England. The antient waie off making canons apeares by Linwood sett downe in there series, off them noe confirmation by parliament nor any one canon confirmed. Hee wrote in H. 6. Manie made after and noe confirmation in parliament; yet manie did Binde. For 25 H. 8 they should binde untill other order. The canon concerning laie chancelors was accepted untill taken awaie. From 25 H. 8 understood they did Binde without a parliament. In the act of submission and passages wherupon, that act prepared not helde then that the canons should not binde with assent. Manie canons made synce. Never came to the parliament for confirmation. This practise a proofe off the lawe.

"For reason, as a clergie and laitie in a state as soule and bodie in a man. They both under one governor that *quoad mores* to the King and his convocation the other to the King and his parliament. The King usuallie sendes to them not to trenche upon the lawes etc. 41 [Probably 51. *Cf.* below, note 13] E. 3, N: 46 parl. Rowle. Divers adiaphora, *praeter legem;* as custome not *contra legem.* As to his authority 7 H. 8 the clergie in a premunire, for a canon itt was a canon contrarie to lawe. After a disuse. Authority 20 H. 6, 13 convocation may make canons to binde for holidaies not laitie. So 20 E. 4. Statute E. 6 to take them awaie. 4 H. 4 cap. 3. and by 25 H. 8 conceaved they might make. The mandates not to medle with lawe an argument hee might make. The 8 Jacobi Regis, A question in the lords house and Cooke and Fleming off opinion, the convocation might make according to the limitations off 25 H. 8. They cannot Binde temporaltie; as to the temporalls; but in things off indifferencie they might in Linwood things off indifferencey which concerned the laitie.

"2 question whither they have a power the parliament being dissolved but were a deade bodie uncapable off a commission: 2 writts one to the bishop and for the proxies off the clergie and that determines with the parliament. The other is the summons off the convocation *ad tractandum et consulendum* and by that contribute monie as well as make canons. This not relative to the parliament before 25 H. 8 these writts proxies upon them to apeare upon that writt for the convocation and are upon that writt, althoughe that writt requires noe *per cleratos* as the other doth. Yett the course hath

Mr. Saint John moved that hee would onlie handle this question whether any Canons or Constitutions of anie Counsell Nationall Provinciall or Synodicall, did bind without act of Parliament and hee held not. First hee helde that if[9] the clergie weere bound no further then the laitie; because if they binde them, wee must bee bound by it, being to pray and ioine in

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byn to make proxies. 16 H. 7. The very writt. 10 H. 7, 12 H. 7. The writts 14 H. 8, 21 H. 8, both the writts entred in the convocation Bookes; So convocation when noe parliament. 18 E. 3 Parl: Roll: the clergie to meete before parliament.

"As to the question whither the Authoritie well pursued. Some may bee good and according to the power some may bee good and the particulars would bee considered. Acquitts the act off Benevolence; antiently they might, and levies for them. Answer: deprivation in a convocation where noe parliament granted. Objection: these taxes etc. contrarie to statutes de tallagio and petition of Right. But that not where a bodie assembled to binde themselves. Antient grants noe relation to parliaments punished sometymes with deprivation when the clergie discontented by the dissolutions. Then the confirmation came in. 32 H. 8 none founde before. Objection: confirmed of later tyme. Iff Free before may bee soe still iff they will. As to the Imprisonment that cannot bee but iff the Imprisonment by consequence off lawe, as deprivation the Freehold taken awaie, *ex consequenti*. They are there by proxie and by that binde themselves, lett them take heede whom they make proctors.

"The canon for Inauguration. Objection: against the statute of 5 E. 6. I thinke that doth restraine them yet this not a holidaie but half a holidaie. This hath byn observed, but noe punishment untill now. Objection: another Booke of common praier. Touching the laie chancellor the statute 37 H. 8 authorizeth them. The canon prohibites. I would reconcile because offence taken that laie men should excummunicate. This difference before H. 8 an antient canon laie men should not medle with censures ecclesiasticall.

"The oathe hee doth condemne, but whither they have a power to make an oath for those things wherin they have Jurisdiction. As in Linwood oath upon oath made, off things wheroff they had Jurisdiction. The oath of canonicall obedience might bee by parliament, being antient. But itt is Inlarged by 1° Jacobi Regis. 18 E. 3 an oathe made by the Lords against corruption. Thorp questioned upon itt for corruption. Indited for breaking *rebelliter* and adiudged to bee hanged and forfeted. This upon that oathe.

"I did send to see the oathes in R. 2 tyme; my notes are itt was for the matter and irregularitie not for the power off making. But I dislike the matter. 1, for putting doctrine and discipline togither. 2, to sweare the government ought to stande and must not bee compelled to sweare a positive doctrine. *Cui potest subese falsum.* Itt bindes up his vote before itt comes and doth prevent submission to the vote off others. Iff you would reduce the 39 articles to that sence a clauce doth. I knowe not how farr the oath doth extende. The exposition off any other sence then is expressed cannot bee I doe not knowe itt. Itt will not stande with plaine words.

"The 1 canon concerning order of Kings there power, and concerning propertie and what wee owe upon aides etc. Divine unhappie when they medle beyond there owne spheare must not measure our government by newe testament or old. The matter off propertie hath a shewe as iff beholding to them; wee bounde to aides and yett a propertie one brought in to binde the other; iff itt had byn there is a trust to supplie, but itt must bee in a parliamentarie waie and wee are bounde in conscience to doe itt iff neede. . . .

"There was a power to make canons without Parliament. There was a power continuing. The canons manie dangerous. But iff not voide then all can not bee laide by. To bee carried in an even waie." Palmer, ff. 110-114. *Cf.* Northcote, 65-69.

When Holborne sat down Sir John Wray asked him, "where and when he received the communion." He answered, "That he is a due receiver of communion at his parish but not since the parliament." Northcote, 69.

[9] The *if* here is probably a mistake.

holie duties with them. Wee give the clergie ther wages and therfore tis reason wee should bee bound by them. But wee are now all one bodie, and must bee all bound by consent in Parliament. And by the statute de a°. 1°. Eliz. cap. 1,[10] nothing was given to the crowne but all the ancient rights weere restored to it. All canons made and Constitutions decreed before the Statute de a°. 25 H. 8. Cap. 16 [19] weere then voided and abolished. And by that statute nothing is made to binde us but onlie they have licence if they doe make them not to bee punished. Hee shewed, that in the Saxons time Constitutions and Canons made by the Parliament. Soe in William the firsts time: matters of religion weere determined in Parliament. And soe in H. 1,[11] and H. 2, King John, and H. 3, maintained ther prerogatives in constituting matters of Religion. In H. 8 time almost all matters of religion ordered by Parliament and soe all matters of Religion handled in E. 6 time Queene Marye and Queene Elizabeth. Therfore they could not doe it without an act of Parliament. Hee then shewed the horrible tyrannie of excommunication and how unfit for us to bee bound by it. The verie ancient writts weere *ad tractandum et consentiendum;* by which the convocation was summoned. Rot. Parl. de a°. 15°. E. 3, n°. 26°,[12] it appeares that the Canons weere then confirmed by act of Parliament. And soe Rot. Parl. de a°. [*blank*] E. 3, n°. [*blank*],[13] the Commons doe ther profes that they are not to bee bound by anie Canons or Constitutions without ther consent in Parliament.[14]

f. 78a] MR. MAYNARD saied that those who would binde us by the Canons of the clergie doe use the verie arguments the Pope did to raise his owne power. Tis true the clergie never ceast striving to enlarge ther power, but that ambitious designe was ever opposed. Hee made an excellent obser-

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[10] See above, p. 127, n. 10.

[11] Northcote (69) says: "3rd Henry I at Malmesbury spiritualty and temporalty met." But the meeting referred to was evidently not at Malmesbury but quoted from William of Malmesbury. Peyton (f. 48) quotes Malmesbury, f. 179, 129 "of the power of Cleargie and Laitie." Palmer (f. 117) says: "Malmesburie fo. 120 The clergie and temporaltie present. Sic enim necesse erat." Willelmi Malmesburiensis *de gestis regum Anglorum* in *Rerum Anglicarum scriptores,* 1596, p. 129 v.

[12] *Rot. Parl.* II, 129-130.

[13] Palmer (f. 117) identifies this as 51 E. 3, n. 46. *Rot. Parl.* II, 368.

[14] "Mr. St. John; satisfied in his conscience in this convocation may bee out of parliament but iff they may can not binde but without assent in parliament. Iff determinative to Interest, all agree they cannot Binde. But iff in *agendis credendis spiritualibus* whither shall binde the clergie. I thinke noe difference, iff any itt must bee because wee are distinct bodies, and that wee are not; our lawes clearlie binde them.

"Theres cannot binde themselves as an act by commons cannot binde for not the whole bodie. Iff they may binde themselves wee shall consequently bee bounde as in our praiers etc. 1 Eliz. gives the usurped Jurisdiction to the crowne. Iff so given to the King the clergie out off Dores, itt must bee the Kings act not his confirmation. The Imperiall crowne comprehendes *terram et gentem* iff annexed to the crowne resides att home. Couple the acts off 26 H. 8 et 1° Eliz. there but restitution. So declared 5° Eliz. cap. 1°. Shee claymed noe more author[ity] but what is and antiently was due to the Imperiall crowne. The statute 25 H. 8 they saie implies the King and clergie may make canons, and the use before is urged. But 25 H. 8 explaines and declares vation that the King gives them onlie libertie to make an oath for the clergie; and they have made it to extend to Doctors of phisicke and all graduates: and then they sweare to uncertainties and yet sweare they sweare certainlie and willinglie, in which they are forsworne. They had noe authoritie from the second Commission to doe what they have done.[15]

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they were voide. Linwoods were neglected hee saies in his epistle *Neglectum quodam* they were voide. The statute off 25 H. 8 by that clause declares them voide althoughe the Kings licence but Noe punishment.

"Per 25 H. 8 considerable whither the clergie alone or clergie and King may make them in *temporalibus,* hee can not, why then in *spiritualibus* iff soules more precious then bodies.

"For the practise. Malmesburie *de gestis pontificum.* 15 Æthelberti good constitut[ions] for publique praiers. Bishops should not *oprimere* but *dilegere,* like in Inas. Apeare to bee in parliament. 13 R. 2 Cl[ose] Rowles. William the Conqueror in his first yeare *leges ecclesiasticas emendandas curavi.* Malmesburie, the canons in parliament. *Ne quis reverentiam corporibus mortuorum exhibat* and other like onelie in spiritual things. 8 E. 2 Parl. Roll: *exam. per Epis*[*copum*] *Exon.* A revocation in parliament. Synce the usurped Jurisdiction restored in 25 H. 8 the King acknowledged supreme heade. 27 H. 8, 35 H. 8, 3 E. 6, these things done in parliament. 31 H. 8 transubstantiation auricular confession disputed in parliament. The lords tooke order for translating the Bible into Englishe. A mariage. 32 H. 8 cap. 25 learned persons apointed. 34 H. 8 some allowed to reade bible. 37 H. 8 for civilians. 1 E. 6, 2, 2 et 3 E. 6 cap. 1, the liturgie. 2 E. 6 eating fleche. 2 et 3 E. 6 cap. 21 ministers may marie. 5 et 6 E. 6 Holidaies. 1 Eliz. Doctrinall and ceremoniall parliament[?] established.

"The aplication. Princes doe not usuallie in point of Jurisdiction resort to there people iff could doe itt without them. Confessed that determinative as to the Interest cannot binde. Iff might excommunicate then must not bee buried in Gods acre. Imprisonment, iff any enter into his landes deteine his Rents doe not paie his rents the excommunication may bee pleade[d], hee secluded and must live upon almes. So included Bodie lande and goods bounde. Malmesburie Folio 129 the clergie and temporaltie present. *Sic enim necesse erat.*

"The writts. 13 E. 3 part 1^a Parl. Roll: *et ad consentiendum.* The 2 writt is *ad tractandum et consulendum quae ordinari contigerint.* Writt in the side of writt *de clero convocando.* 15 E. 3 Nu[mber] 26 Parl. Roll, Proclamation recites the petitions off clergie were by consent of commons. 51 E. 3 N. 46, protested they should not bee bounde by canons without assent in parliament. For they will not bee bounde without assent. So a petition off Right, and the Kings answere itt should bee declared in spetiall. So noe constitution could binde without assent. Dr. Standish for saying *Jura ecclesiastica non ligunt nisi consentientes.* Upon full debate the King excused Dr. Standishe and sayd hee had answered well in all Points. 25 H. 8 cap. 21, that noe person shall goe over to any forreine assemblies. The preamble recites the people not subiect to any lawes but by consent. [*Blank.*] Ult. statute is very full. So concludes noe canons can bee without assent in parliament to binde clergie or laitie." Palmer, ff. 115-118.

[15] "Mr. Mainard. Prevented in manie thing[s] and will not saie what hath byn sayd. They that undertake the maintenance off canons upon that grounde mainteine the popes authoritie. Extreme striving betweene pope and them, most by legatine power, for Institut[ed] etc. to take power to themselves, etc. *Intellexit decretum suum non habere robur nisi etc.* They admitt generall counsells shall not binde further then receaved, therfore not provinciall. There canons did not take effect but acts off parliament did. The argument follows. They medle with propertie as iff wee did owe itt to them. They have made a holie daie. The King abused in the oathes. They presented to the King an Intention for an oath upon all that shall take holie orders yett enioine upon all off any learning and so obtruded yett the Kings consent generall. Itt sweares matters *de fide* expresslie. For sweares that off which none can be sure. The oathe *de parendo etc.* They saie used but surelie against lawe etc. Concerning the

Then Sir John Wray spake in generall against the innovations and usurpations of the Bishopps.[16]

Then I spake and shewed that I did not rise upp to argue the Canons anie further but onlie to answeare some particulars had fallen from the gentleman in the gallerie (I meant Mr. Holburne).[17]

Then followed much dispute about the Question: and at length it was thus putt.

As manye as are of opinion that the Clergie of England convented in anie convocation or synod or otherwise have no power to make anye constitutions canons or acts whatsoever in matter of Doctrine or discipline or otherwise, to binde the clergie or laitie of the lande without common consent of Parliament.

f. 79a] Resolved upon the Question *nullo Contradicente* (etc. and soe write downe the Question verbatim). That the clergie etc.

Then was the second question putt.

As manye as are of opinion that the Constitutions and Canons Ecclesiasticall treated upon by the Archbishops of Canterburie and Yorke Presidents of the Convocations for the respective Provinces of Canterburie and Yorke and the rest of the Bishops and clergie of those Provinces. And agreed upon with the Kings Majesties licence in ther severall synods begunne at London and Yorke, 1640, doe not binde the clergie or laitie of this lande or either of them.

Resolved upon the question *nullo Contradicente*. That the severall constitutions (etc. verbatim iust as in the Question).

Ordered wee should consider further of the illegalitie of the new Canons too morrow morning at nine of the clocke.

Post Meridiem.[18]

We mett in the Exchecquer chamber in the Committee for Mr. Prinns petition a little after three of the clocke in the afternoone.

An order dated in *Camera stellata 8 die Junii a°. 10 Caroli Regis*, by which Mr. Prinns fine was to bee estreated speedilie of 5,000£ and that hee should bee close prisoner, and kept from penn and paper, because hee had sent a letter to an honorable personage (viz. the Archbishopp of Canterburie) of two or three leaves, and being sent for by Noy the Attorney and

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writt, 2 went out on one daie, the 1 *quod interfuit etc.* 2 off the same date hath another retorn another place and tyme, *ad consentiendum tractandum et concludendum.* When mett are a bodie; and continued a bodie and had a newe Commission, this but to propounde but not *quoad vim obligatiorum.*" Palmer, ff. 118-119.

[16] The formal version of Wray's speech may be found in *S. and P.* 288-289.

[17] "D'Ewes said, That many of the statutes were false printed and in many places were omitted twelve lines together, and wished the bookes might bee compared with the Recordes." Peyton, f. 48.

[18] For a minute of the Committee of Religion on the afternoon of this day, see *Proceedings in Kent, 1640,* 90.

shewed that letter that hee rent it into peices and threw it into the streete.[19] Sir William Belfore Leiftenant of the Tower did witnes that after hee heard of the saied motion made on the saied 8 day of June within a day or two after the order to the Lord Keeper Coventrie to know if hee should keepe him close prisoner; and hee saied hee needed not. Nor had hee that order till 3 weekes after the date of it: and then hee was held close prisoner for 3 weekes after, and then was againe suffered to bee a prisoner at large.

John Eaton witnessed that hee saw Dr. Helins notes about May a°. 4° Caroli by which hee charged him to have gathered seven heads against Mr. Prinne some amounting to noe lesse then treason, by which it might well appeare Dr. Helyn intended to question Mr. Prinns life. These notes weere sent by one Mr. Brocket to the saied Eaton, which Mr. Brocket witnessed to have been a true copie, for hee had seen the same notes severall times in Dr. Helins hands: and that hee copied them out himselfe out of Dr. Helins hands.

Then weere the examinations of Mr. Prinne read wheerein is little moore sett forth then was in his answeare saving what bookes called *Histriomastix* hee disperst and to whome: viz. that hee had some thirtie bookes from one Sparkes a stationer: and in the same depositions hee doth not acknowledge the same booke to bee one his bookes called *Histrio-mastix* is his booke unles hee had moore time to examine it.

Then weere read the depositions of Dr. Harris and Dr. Goad whoe witnessed that when they weere household chaplaines to George[20] Archbishop of Canterburie divers yeares before, that a little booke written against stage-plaies by Mr. Prinne; this they refused to allow it. Now because Mr. Prinne had in his answeare and in his examination upon interrogatories had saied that hee shewed not the present booke called *Histrio-mastix* to anie person before Mr. Buckler: whence in the sentence in the Starre-chamber chargeth him with periurie for this. It was the sence of the Committee that this was noe periurie, as I shewed because the former parcels weere in truth neither this individuall booke nor any parte of it.

f. 80a] A second periurie charged on Mr. Prinne is that ther is a difference in his answeare to the interrogatories from his answeare. In his answeare hee saieth hee delivered out some of the saied bookes called *Histriomastix* the Christmas before: and in his interrogatories he saieth hee did it the Christmas was twelvemonth before. And to this Mr. Prinne himselfe, saied that hee told one Smallie the examiner that it was mistaken and badd him mend it, who promised him to amend it, but did not.

Then the companie that weere not of the Committee withdrawing wee went to vote this first proceeding against Mr. Prinne. Wee all agreed upon the witnes of one Mr. Collins that the now Archbishop of Canterburie had a hand in this prosecution of Mr. Prinne as deepelie as Dr. Helin. That the whole proceedings against him with the sentence or iudgment past in the Starre-chamber.

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[19] For this letter see *Documents relating to . . . William Prynne,* 32-56.

[20] George Abbot.

Soe it was resolved upon the Question that all the proceedings in the starre-chamber upon which the sentence Febr. 17, a°. 9° Caroli was grounded against Mr. William Prinn weere all of them uniust and that the saied sentence ought to bee reversed.

And it was resolved secondlie upon the question that hee ought to bee freed from all further trouble and damage by reason of that sentence; and that hee ought to have reparations made for all his wrongs and losses therin sustained.

December 16. Wednesday. 1640.

After a motion of noe great moment made touching the Committee for the election of Marlow Magna in the Countie of Buckingham:[1] was read The petition of Guilford Slingsbie late a servant of the Earle of Strafford by which hee desired leave to repaire to his saied Lorde about accounts; but this Howse would not intermeddle with it, but wished him to goe petition the Lords.

John Claiton a common lawyer petitioned against certaine troupers that had violentlie broaken into his howse and spoaken verie disgracefullie and contemptiblie concerning the late petition of Right, it was ordered the parties should bee sent for to appeare and answeare to the charges of the saied petition.[2]

Sir Francis Seymour made reporte touching the Committees proceedings in the examination of the petition preferred against Mr. John George a member of this Howse touching his uniust oppressions of divers persons in Middlesex under couler of not scouring the navigable partes of the river Thames. It appeared that hee was verie guiltie in manye of those particulars, not onlie by the witnes of others but by divers letters alsoe written by the saied Mr. George to one Edward Rich Esquire; which weere produced in the Howse and some of them weere read by the clarke.

Mr. Hollis shewed that the Committee resolved first that the Patent of Conservancie touching the Thames granted first to White was a Monopolie and a greivance, and against law: and secondlie that Mr. George though hee weere not a patentee at first yet had been an actor in it. And both these particulars Sir Francis Seymour confessed to bee true.

f. 81a] It was therfore thought fitt it should bee committment[3] againe to the same Committee with further power to send for the Patent of Conservancie and to consider of all other like Patents of pretended Conservancie of navigable rivers with the complaints therupon. And soe divers moore weere added to the Committee. And this was ordered accordinglie, and to meete in the checquer court too morrow at two of the clocke.

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[1] Four new members added to it, and to meet the next day. C.J. II, 51.

[2] Petition referred to the Committee for Deputy Lieutenants. C.J. II, 51.

[3] D'Ewes has crossed out *referred* and written *commitment,* meaning committed.

MR. MAINARD made report touching the election of Bramburne in the Countie of Sussex from the Committee of Priviledges that one Sir Edward Bishopp who was elected did offer x£ to bee elected: and this was thought to bee such a misdemenour as made him uncapable. Then the saied Sir Edward Bishopp election in the saied towne was upon the Question made void. Then Mr. Onslowes election ther was likewise made void ther upon the question. Then upon a thirde question it was voted that Sir Edward Bishopp aforesaied in respect hee had offered the saied x£ was uncapable to bee a member [of] this Parliament. And soe it was ordered.[4]

It was moved that Sir Edward Bishopp might bee sent for as a delinquent for offering the saied x£. I saied that his being disabled to bee of the Howse this Parliament was sufficient punishment for his buiing of winde and breath. Tis true his offence was that hee offered to buy a iudiciall place. The first iudiciall place that I read to have been bought upon Recorde was by Thomas Becket, who gave 3000£ for the Chancellors place as appeares in the great Pipe Rolls of H. 2. I wished therfore that as wee punisht the buiing of a Judiciall place heerre, soe a select Committee might bee appointed to enquire of all others that had bought iudiciall places that they might bee punisht, which motion the Howse approved.

Then it was ordered that one John Bramsden the saied Sir Edward Bishopps man should bee sent for by the Serjeant to bee heere on Friday morning to answeare his abusing the Committee with manye falsities.

Then followed an order to referre Mr. Malevres and Mr. Moysers petitions to Committee to enquire after Lord Leiftenants and deputie Leiftenants[5] etc.

Then followed the dispute touching the matter of the new Canons and the illegalitie of them. SIR EDWARD HUNGERFORD mooved that divers of them weere against the Kings Prerogative against the Lawes against the Libertie and proprietie of our goods. Hee disallowed the new wicked oath. Hee wished it might bee enquired if ther weere not a principall sollicitor heere as wee found amongst the Judges in the matter of Shipp-monie. And this hee wished might bee enquired after: that soe wee might transmitt up ther offences to the Lordes.

MR. PALMER added that this oath tended to sedition, and to make a conspiracie.[6]

MR. NATHANIEL FINES spake against divers particular Canons as illegall; and especiallie against the oath.[7]

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[4] *Cf.* Northcote, 70.

[5] According to the *Journals* (II, 51) the petition of Maleverer and Mayser was referred to the committee for preparing charges against the Lord Keeper and the judges.

[6] See Northcote, 71.

[7] See Northcote, 71-72. For the formal version of the speech see *S. and P.* 49-64;

f. 80b] Assoon as Mr. Nathaniel Fines had done speaking, Sir John Brampston knight and Sir Edward Littleton knight Lord Cheife Justice of the Common pleas came in and brought us a message from the Lordes to this effect. That the Lordes did desire this Howse to give them a meeting presentlie for a conference to bee had by a Committee of both Howses in the painted chamber if it might stande with our conveniencie, to treate of the great and waightie busines concerning the Scotts.

They being gone out of the Howse wee fell into a tedious and unseasonable dispute[8] whether wee should give the Lordes a present meeting or send to them by a messenger of our owne. I spake and divers others for a present meeting; but wee disputed it soe long that at last the Lordes sent to ther saied messengers that ther was noe need of our present comming.

Soe the messengers being called in after above halfe an houres debate wee sent worde by them to the Lordes that wee weere in the agitation of a verie great and waightie busines and soe would send ther Lordships our further resolutions in convenient time by messengers of our owne.

The saied Judges being gone, Sir Ralph Hopton stood upp and spake against the Canons and new oath much to the same purpose that others had done: and alledged that yesterday one (meaning Mr. Holburne) had alledged that the King was the head the Clergie the soule and the laitie the bodie etc.

f. 81a] Then I spake and at first answeared that [the] Chancellour in open Parliament saied the King was the head the Bishops the right hand, (Rot. Parl. de a^{o}. 5^{o}. H. 4. n^{o}. 2do.[9] The Bishop of Lincolne being [*blank*]. For the Canons badd verie badd. *Quod efficit tale magis tale est*) onlie to two things. 1, to the Canon τερὶ τῆς προσποιήσεως, etc. and 2, to the oath, had it been an Imperative etc. it had ensnared all men: as well beleeve all the stories in the Legends and Alcoran, etc. They would not suffer Images or altars much lesse etc. Leo the 3, etc. *ubi populi et animarum decipulae* etc.[10] For the oath certainlie it is of fatall consequence and cannot doubtles bee compeld upon the subjects of England *sine Parliamento etc.* Certainlie such an oath had been treason in the time of Poperie etc. as H. 3 in France entered into such an oath, this neither excused the Cardinall of Lorraine nor Peter de Espinac Archbishop of Lyons[11] but the one death the other imprisonment. E. 3 touching an oath in Parliament etc., least moore bee forsworne how many oaths weere taken by authoritie of Parlia-

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Rushworth, IV, 105-110; Nalson, I, 672-677. *S. and P.* gives no date; Rushworth and Nalson incorrectly date the speech December 14.

[8] See Northcote, 72.

[9] *Rot. Parl.* III, 522.

[10] D'Ewes has crossed out the following words: "And when that wicked 2d Nicene Counsell, etc. The verie English Saxons by Alcuinus, a great divine amongst them, etc. wrote against it in the name of the Church of England." D'Ewes in his allusion to Leo III is probably referring to some phase of the iconoclastic controversy.

[11] Pierre d'Epinac (1573-1599).

ment in R. 2, H. 4, H. 8, and E. 4 time lamentable experience shewes on the verie Parliament Rolle. For if our goods and persons bee free much moore our soules and an oath ensnares them.

f. 82a] Trulie[12] this new oath deserves high punishment having exceeded the Kings Commission whether the chaire etc. Those Bishops to bee especiallie punished that have exacted this new oath of anie of the clergie since the oath made and perhaps *sedentibus Comitiis etc.*[13]

Then after I had spoaken divers agitations followed what questions should bee putt for the further condemning of the new Canons: and after long and great debate in which I spake with others to the first question, it was at last putt as followeth.

As manye as are of opinion, That these Canons (which the speaker then held in his hande)[14] [*blank*]

In the second question as the Speaker was putting it, hee saied sacred Synod. I stood upp and praied him to leave the word sacred out and soe hee did. And then after much dispute it was put as followeth.

As manye as are of opinion [*blank*][15]

Then Sir John Hotham after some other motions had passed[16] moved that a Committee might bee appointed to take into consideration the offence of the makers of these Canons; and particularie to enquire whether the Archbishop of Canterburie ought not to bee charged with high Treason or not.

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[12] Between this paragraph and the preceding, these words (f. 82) have been crossed out by D'Ewes: "It appeares in the Communia Rolls of H. 3 in the Custodie of the Lord Treasurours Remembrancer, which passage I wrote out divers yeares since etc. that a new oath was invented by the King and his Counsell, etc. and soe the oath perished."

[13] D'Ewes's speech on canon law adds nothing to the discussion. That he made the speech at all reveals an interesting side of his character. When the subject first came up on the 9th, he was very much bored by it, and soon gave up the effort to take notes. But he could not endure to be left completely out of any discussion which involved the citing of old records. So on the 14th and 15th we find him taking more careful notes, and then at last entering into the game. But his speech reveals the fact that he did not know the subject as the other speakers did; that he did not know it as Palmer did. Palmer's knowledge of the subject is revealed not alone by his part in the discussion but even more by the notes he took of other men's speeches. His report is only rough notes where D'Ewes has a more finished product; but he is definite, explicit, and detailed where D'Ewes is vague and general, or even incorrect. It is for this reason that I have given Palmer's report of most of the speeches in full and without trying to fit them into D'Ewes's account.

[14] "Resolved upon the question, . . . that these canons and constitutions ecclesiastical . . . do contain in them many matters contrary to the King's prerogative, to the fundamental laws and statutes of the realm, to the right of Parliaments, to the property and liberty of the subjects, and matters tending to sedition, and of dangerous consequence." C.J. II, 51-52.

[15] "Resolved upon the question . . . that the several grants of the benevolence, or contribution, granted to his most Excellent Majesty, by the clergy of the provinces of Canterbury and York in the several convocations or synods holden . . . Anno Domini 1640, are contrary to the laws, and ought not to bind the clergy." C.J. II, 52.

[16] According to Northcote (72) it was Sir Francis Seymour who moved for a committee. Hotham went on: "That Lord of Canterbury has been principal active spirit in this business."

Mr. Pymm then spake at large that ther would bee iust cause for manye respects to charge him with high treason as well as the Earle of Strafforde. And soe after divers other motions[17] at last a Committee was appointed. I was named of it by two or three but omitted by the Clarkes negligence.

Ordered that this Committee should examine whoe weere Actors and promoters of the new Canons, and who had since executed them in anie part and to examine in particular the Archbishops of Canterburies doing therin and to prepare a charge of high Treason against him and others that had offended in this kinde. This was ordered and the time and place was appointed at 4 of the clocke this afternoone, in the starre chamber.

Then it was moved by Mr. Noel that such members of this Howse as had either taken or given this new oath might bee disabled to sitt in the Howse, which spetiallie concerned one Dr. Eden and Dr. Parrie, and the motion was seconded by divers: but it being neare two of the clocke the Speaker saied hee was ill and soe the Howse rose nothing being ordered in it.

Post meridiem

In the afternoone I was at the grand Committee in the Howse for Greivances wheere weere divers matter of complaint about taking in of marsh lands, of little moment soe I went away a little after 4 of the clocke.

f. 83a] December 17. Thursday. 1640.

After divers motions for licence for members to goe into the cuntrie to ther wives being sicke for a few daies and then to returne of which I made one, Sir Henry Mildmay preferred a petition in the name of the Descendants from Sir Walter Mildmay that founded Emmanuel Colledge in Cambridge which was in danger to bee subverted especiallie by the continuance of divers fellowes ther longer then by the statutes they ought with other particulars.

And after divers motions touching the saied petition, a select committee was appointed to consider of the saied petition, and for remedie, and it was ordered accordinglie. I was of the Committee too morrow to meete at two of the Clocke in the Court of Wardes.

The petition of John Bastwicke Doctor in phisicke was read etc.[1] Then Dr. Bastwicke came into the Howse and his petition was carried to him to the barre to see and hee avowed it. Then it was ordered that it should not bee referred to the former Committee in Mr. Prinns of which I was, but to a new committee. And it was ordered accordinglie.

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[17] Northcote (73-74) gives other speeches.

[1] See above, p. 125.

Then it was moved by Mr. Kirton that it might bee ordered that noe strangers might come to Committees etc., but I stoode upp and crossed it; and shewed that latelie at a Committee a stander by did witnes in a materiall point. I allowed not disorders but wished it might not bee ordered, that noe strangers might come.

Soe a new Committee was appointed in Dr. Bastwicks busines to meete too morrow in the afternoone in the Starre-chamber.

Then Mr. Treasurour shewed that hee had acquainted the Kings Majestie with the two messages this Howse had committed to his charge the first being: to present to his Majestie the desire of this Howse, that his Majestie would bee pleased to send two of his roiall shipps to scowre and secure the westerne partes from the pirates of Algiers or other Turkish Pirates which now lay ther, to which his Majestie instantlie assented. And to the other message touching the desire of this Howse to enter into the consideration of his Majestie etc., hee read his Majesties answeare as followeth. His Majestie being by mee acquainted with the great care and affection of the Howse of Commons to advance and settle his Majesties revenue doth verie gratiouslie interprett the same and hath commanded mee to give the Howse thankes for it in his name. And his Majestie doth give the Howse free leave to enter into the debate of his Majesties revenues and expences as is desired; and hath given order that all his officers and ministers from tyme to tyme shall assist the Howse therin as ther shalbee occasion.

Mr. Pymme then mooved that wee had received a verie gracious message from his Majestie and wished that if a ballance of his Majestie revenues and expences could bee made readie against too morrow wee might appoint that day to enter into the debate of this busines.

Sir Robert Pie made a shorte motion to the same purpose but added it was impossible to gett the ballance of the Kings revenues and the Kings expences could not possiblie bee gotten readie by too morrow.

I saied that I conceived it necessarie in that ballance wee should have the Kings detts inserted as they weere in that ballance which was brought into Parliament by the Lord Cromwell in H. 6 time.[2] I added that I desired alsoe that the Honorable person who brought us this message might bee intreated to returne our humble thankes to his Majestie for soe gracious a message.

Sir Sidney Montague seconded the latter parte of my mocion. And then the Speaker moved it to the Howse and they all agreed to the motion I had made to returne his Majestie our humble thankes.

f. 84a] Wee mett in the painted chamber[3] etc., the Lordes for want of place went some away and resumed ther Howse etc. but at last came againe.

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[2] See Vickers, *England in the Later Middle Ages* (1913), 409.

[3] What follows is the record of the conference. D'Ewes is the only diarist to record the conference itself.

The Lorde Keeper first made a declaration that the ende of our meeting was to know what had further hapned in the Treatie with the Scottish Commissioners etc. which hee left to our Commissioners.

Then the Earle of Bristow shewed that hee was to give an account how farre they had since proceeded with the Scotts Commissioners since our late conference, which hee divided into 4 heads. First the 8 articles agreed on or to bee agreed on.[4] 2, the calamities of the Scottish armie. 3, The state of the Kings armie. 4, the Charges of the Scotts against the Archbishop of Canterburie and the Lorde Leiftenant of Ireland.

Then my Lorde Mandeville read the Articles and the Earle of Bristow explained them: which weere for confirmation of ther late Acts of Parliaments for having the Castle of Edenborough and other strengths in ther hands to defend the kingdome. Punishment of incendiaries restitution of shipps; refusion of charges etc.

Then was shewed by the Earle of Bristow the great want and distresse of the Scottish armie and that the other 30,000£ bee speedilie sent, which if it bee not ther will a necessitie follow of plundering those Northren Counties which are under contribution. This alsoe the Lord Mandevill read. Then hee shewed the miseries alsoe of the Kings armie etc.

Then the Lorde Paget read the Scotts declarations against the Archbishop of Canterburie and the Leiftenant of Ireland[5] after the Earle of Bristow had named them; the Lord Paget read ther declaration against the Archbishop of Canterburie.

Then the Earle of Bristow spake touching the Lord Leiftenant etc. And the Lord Mandevile read the charges against the Lord Leiftenant etc.

Then the Earle of Bristow spake and desired our Howse to consider of these articles and to give our advice: and the Lordes would alwaies bee readie for a free conference.

Then the Lorde Keeper seconded this last motion shortelie and wished us to advize upon the saied businesses. But I did not perfectlie heare him.

At our returne SIR EDWARD HUNGERFORD moved that the Committee in the shipp-monie being *sine die* might meete this afternoone in the checquer chamber which was ordered accordinglie.

Divers petitions touching Marsh-land undulie taken in weere all referred to the Committee in Dr. Tompsons petition.

MR. PYMME made a parte of the Reporte of our conference for soe much onlie as touched the releife of the Kings armie and of the Northren Counties: and desired wee might speedilie appoint some time to advize upon it.

Then followed divers motions about the monie that was to bee sent into the North and to bee lent by Mr. Harrison and the cittie; for it was concluded to bee impossible for the bill of two subsidies to passe in time to help our necessitie.[6]

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[4] For the eight articles see L.J. IV, 111-112.

[5] For the Scots' Declaration against the Archbishop of Canterbury and the Lord Lieutenant see Rushworth, IV, 113-118.

Then it was further moved and disputed whether wee should name Commissioners in the bodie of the Bill or leave them to the ordinarie course to bee named by the Lord Keeper, and at last it was put to the Question whether wee should name our owne Commissioners which was over ruled upon the Question and soe it was ordered accordinglie that wee should name commissioners: and the Knights and Burgesses, [*blank*]

f. 85a] Sir Thomas Roe moved that wee might conclude somewhat touching the monies to bee sent to the Scottish armie and that 30,000£ might particularlie bee sent moore to the releife of the Northren Counties.[7]

I seconded him and saied that I observed that the Commissioners did especiallie insist to have it declared by the Howse that 30,000£ should now goe to the Northren Counties and but 20,000£ to the Kings armie of this last as the other proportions had been sent before, and this I saied I conceived would give great satisfaction. And yet it was not voted; but agreed unto by a tacit consent. And then after some other shorte motions[8] touching the speedie providing of the last 50,000£ to bee sent away the Howse rose.

Post meridiem.[9]

Sir Frederick Hamiltons businesses in the grand Committee which I have placed in another paper.[10]

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[6] Northcote (74) gives something on this debate.

[7] *Cf.* Northcote, 74-75.

[8] Northcote (75) gives two.

[9] For minutes of the Committee of Religion on the afternoon of Dec. 17, see *Proceedings in Kent, 1640,* 90-92.

[10] A widow called Evelin Lynch that was Sir Fredericke Hamiltons tenants wife viz. of Richard Lynch. The Leases ended in 1627 made from one Dexter.

Upon her petition to the then deputie hee referd it to the President of Connaught. Sir Roger Jones Vice-president of Connaught referrs the same to the examination of Josias Browne and Henry Bingham by subscription onlie but not by Commission. They in Sir Fredericks absence when none was present on his behalfe examine witnesses and returne the examinations of which Sir Frederick had no notice till publication. The vice-president made a Reference, being but a Referree.

Therupon Sir Roger Jones vicepresident proceeded to a decree against Sir Fredericke, which was obeied by his tenants, and servants hee himselfe being gone for England to complain.

For remedie in 1628 Sir Frederick preferd a bill in Chancerie wheere after an orderlie proceeding and hearing of the cause the possession was established in Sir Fredericke. Dexter acknowledged Sir Fredericks right.

After six yeares quiet possession the widow Evelin Lynch preferrs a new petition against Sir Frederick in 1633 to the Deputie who referd the busines againe to Sir Richard Jones vice-president and not to the chancellor before whome it had been heard and decreed. The saied vice-president certified the Decree made by himselfe but certified nothing touching the decree made by the Chancellor. Upon Sir Fredericks answeare and setting foorth the decree and proceedings in Chancerie all rested quiet againe for 4 yeares.

22 May 1639 Sir Frederick Hamilton being in England and imploied in his Majesties service, his adversarie in his se[*blank*] By which decree 323£ 10s weere adiudged

December 18. Friday. 1640.

The Speaker was at the Howse before 7 of the clocke and before I came divers bills of noe great moment weere read: and after I came some petitions of like moment.

Mr. Maynard moved that Mr. Camvile[1] a member of this Howse had letters of Administration granted against him; and it was ordered that all proceedings against him should bee staied:[2] and that Sir Edward Savage and the Register may bee sent for: to answeare ther breach of the Priviledge of this Howse.

Upon Mr. Whistlers motion from the Grand Committee of Ireland etc. in Sir Frederick Hamiltons etc., it was ordered that an inhibition might bee sent etc., in Evelin Lynches cause etc., and the sheriffe to stay the monies levied etc.

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to the saied widow from 1627 to 1639, under couler wheereof his tenants weere putt out of possession of the saied lands formerlie leased to the saied widow Lynches husband, in a farme of 24£ per annum in the Countie of Mayo, and 400£ of his rents seized in the Countie of Letrim and both these done by the sheriffs of the saied Counties.

This decree at first conditionall; was after made absolute etc. notice coven garde.

1. This illegall in the Vice-Presidents decree because hee decreed the possession to the widow Lynch after the terme expired of her husbands lease, all done alsoe with a high hand in Sir Fredericks absence.

A^{o} 2do E. 3. The King of England iudges in Curia not in Camera. The Lorde Deputie saied hee could doe it inera potestatem.

2. The Deputies iniustice appeares in this that hee decreed monies and possession against Sir Frederick Hamilton upon the Vicepresidents certificate and never sent to the Chancellor.

The saied Sir Fredericke and his Counsell having withdrawen, Sir John Clatworthie moved that the busines might bee put offe till notice weere given to Sir Roger Jones and Evelyn Lynch widow weere summoned to appeare.

I spake on the contrarie side and sett foorth the breach of lawes and liberties by the Decree first of Sir Roger Jones then by the Deputies decree 1633, by which all that had been decreed in Chancerie after mature debate was made void. For anye restiution of monie that was to bee made to the widow Lynch I agreed it was fitt shee should first bee heard; but for matter of Record and violation of liberties I saied that might now bee now bee made evident. I desired therfore that the gentleman that petitioned having been at great cost to bring his counsell not onlie now but at a former subcommittee might not bee delaied and putt offe, but might make proofe of somewhat that was obiected by him in his petitione.

Soe upon my motion Sir Frederick and his Counsell weere called in againe and it was offered them if they would to proceed to the proofe of somewhat they had alledged. But it being late it was by Sir Fredericks consent putt offe to a further time, till hee could summon the parties complained offe to appeare. Soe upon his withdrawing againe and his counsels, wee agreed that the Howse of Commons should bee moved to grant an iniunction that noe further proceedings should bee had against him and to the sheriffs in whose hands anie monie yet remained that hee should keepe it till the matters weere determined heere. And a little after the Committee rose. Harl. 165, ff. 88-88 verso.

[1] Probably James Cambell of Grampound.

[2] "That Sir Henry Martin had granted away an Administration from a member of this house notwithstanding hee had putt in a Caveatt against it, which hee conceived to bee against the priviledges of the house." Peyton, f. 50.

Upon my motion it was ordered that Sir Fredericke Hamilton should returne and come safelie into Ireland etc.[3]

Then MR. NATHANIEL FINES moved that a select Committee might bee appointed to enquire of the imprisonment of some of the members of this Howse,[4] after the dissolution of the Parliament a°. 3°. Caroli.

MR. HOLLIS moved that such as had suffered of which hee was one might not bee of the Committee.

I added that former ages as a°. 4°. E. 3 to the last Parliament of E. 4 weere freed from such imprisonments. In Queene Elizabeths time but one man sent twice to the Tower Peter Wentworth a°. 35°., etc. by the Queene etc. a°. 39°. et 40°. by the Howse; for medling with the succession; but was both times restored with honour to the Howse.[5]

Then was a Committee named etc., and the matter ordered etc.

After followed divers speeches for addition to this Committee to consider of those who suffered the last Parliament either by imprisonment or search of papers.

I moved that the search of papers was a greater iniurie then the imprisonment of the bodie. For by that I suffer in my owne person alone, but by the other, myselfe and all my freinds and many petitioners might bee drawen into danger; soe as noe man will either complaine or let us know ther greifes. Soe the breaches of priviledges after the dissolution of the last Parliament[6] as well as in a°. 3°. Caroli.[7] And it was ordered accordinglie, to meete on Monday at 2 of the clock in the court of wards.

I then moved that such as had suffered in the last Parliament after the dissolution of it: might bee putt out of the Committee and it was done accordinglie.

f. 86a] The Lorde Keeper sent a letter to one Mr. Finch[8] in which hee desired him to move the Howse that before ther charge went upp against him hee might bee heard heere.

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[3] For the full order see C.J. II, 53.

[4] See C.J. II, 53. For the proceedings in 1629 see N. and R. 239, n. b.

[5] Peter Wentworth was first imprisoned in 18 Elizabeth (Feb. 8, 1576), not 35 Eliz. He was imprisoned for the second time Feb. 25, 1593, *i.e.,* 35 Eliz. not 39 et 40 Eliz. *Cf.* D'Ewes, *Journals of all the Parliaments during . . . Elizabeth,* 236-241, 470.

[6] See *Cal. St. P. Dom. 1640,* 153.

[7] Sir Edward Coke, April 29, 1628. "I was committed to the Tower, and all my bookes and studdie searched and 37 manuscripts were taken away and 34 were restored and I would give 300£ for the other 3." Mass. MS., f. 138.

[8] John Finch, member for Winchelsea. Peyton (ff. 50-51) gives a more detailed account of this letter which the House refused to allow Finch to read: "The Lord Keeper heard there was a charge intended against him from this house, and that hee had rather part with his life and fortunes to have their favour then enjoy them both with their displeasure, and nothing could bee more greife and sorrow to him then to have offended this house; and therefore now made it his humble request that they would heare him a few words for himselfe before they did passe any vote in the house against him."

Mr. Pymme[9] and Mr. Cage weere of opinion that hee might bee heard heere before his charge went upp.[10]

Mr. Perepoint acquainted the Howse that hee hoped the charge against the Lorde Keeper would bee readie to present to the Howse too morrow.[11]

Soe the sence of the Howse was that the Lorde Keeper might come and speake in the Howse, after his charge was in: but nothing was ordered at this first motion.

Then Mr. Harrison shewed that the last 25,000£ hee was to lend should bee ready the next weeke.

It was moved Sir William Udall might have power to receive. Sir Walter Earle moved and I seconded him that 30,000£ of this last 50,000£ might goe to the releife of the Northren Counties and but 20,000£ to the Kings armie.

Mr. Pymme made reporte of our conference yesterday with the Lordes etc. At the conclusion hee wished that wee would consider of speedie supplie: and of having the Archbishop of Canterburie sequestred from the King.[12]

Mr. Grimstone spake to this second point that the Archbishop was the roote and ground of all our miseries and calamities; both in Church and Commonwealth weere originallie proceeding from him. Hee preferd the Leiftenant to his honours and places etc. Hee preferred Secretarie Windebanke, Bishop Wren and all the other wicked Bishops now in England.[13]

Mr. Harrison the yonger moved that the Archbishop might bee speedilie committed.

Mr. Pymme moved wee might presentlie send upp a charge of high Treason against him and soe it was agreed. And Mr. Hollis was nominated to goe upp with the message.

And soe it was ordered accordinglie. And manye of the Howse. Mr. Hollis to goe upp with this message to the Lordes to accuse William Lawd Archbishop of Canterburie of high Treason in the name of this howse and of all the Commons of England and to desire that hee may bee sequestred foorthwith from Parliament and bee committed; and that within some convenient time this Howse will resorte to ther Lordships with particular Accusations and Articles against him.

Then wee withdrew after the message delivered and awhile after being called in the Lord Keeper sitting in his seate saied: That their Lordships have considered of the Accusation of high Treason against William Lawd

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[9] For Pym's speech see Northcote, 75-76.

[10] "Mr. Stroude. Mr. Speaker, I sate in this house at the time, when all that sate here could nott make him speake then that now desires to bee heard." Peyton, f. 51.

[11] Glynn, Digby, Harrison, and Strode spoke also. Northcote, 76.

[12] This report is given by Palmer (ff. 120-124), but even more fully by Northcote (76-80).

[13] The formal version of this speech is given in Rushworth, IV, 122-123. *Cf.* Palmer, ff. 124-125.

Archbishop of Canterburie and have according to your desires committed him to the custodie of the gentleman Usher.

After our returne to the Howse the Question was then putting by the Speaker;[14] whether 20,000£ of the 50,000£ remaining should not bee sent to the Kings armie and 30,000£ to the releife of the Northren Counties for ther paiment of the contribution. And it was soe resolved on the Question and ordered.

f. 87a] Then it was moved that our free conference with the Lordes should bee alsoe touching the further supplie of the armies.

But I stood upp and saied that I had been present at the conference and I did not heare that any thing was mentioned touching the further supplie of the armie: but onlie touching the 50,000£ yet unsent.

Upon my testimonie Mr. Treasurour confessed the same. And soe those wordes weere left of the order. And soon after the Howse rose.[15]

Post meridiem.

I was at the Committee for Shipp-monie and ther weere divers new complaints brought in against Mr. Coningsbie sheriffe of Hartfordshire in 1638. And the saied Pruddon who was ordered last Friday to appeare heere today, confessed many things that had been charged upon him hee discovered three particulars against the saied Mr. Coningsby first that hee gave him authoritie to take 2s 8d upon everie distresse out of which hee the saied Pruddon had 1s 8d and Mr. Coningsbies man 1s. Secondlie that the sheriffe gave him order not to prize any distresses, but sell them for as much as hee could. Thirdlie that in one and the same warrant hee gave him order to distraine or if anye weere obstinate or distresses weere not readie hee should imprison ther bodies. Then hee shewed a letter from the Lordes of the Counsell dated the last of June 1638, to which the hand of William, Archbishop of Canterburie and others was subscribed in which amongst other particulars they promise that if anie suite should bee brought against anie man hee should imploy to distraine, they should receive noe damage but that 3 Attornies weere appointed in the Kings bench, Common pleas and Exchecquer one in each court to answeare all such suites as should bee brought against anie parties for distraining for shipp-monie without anie charge to them.

This Committee adiourned to the Tuesday after twelf-day, Jan. 12 next ensuing.

December 19. Saturday. 1640.

Some bills of noe great moment weere reade 1ª vice before I came. At my comming ther weere matters of Religion in agitation; and ther it was alledged that 12 die December the grand Committee for Religion made a subcommittee for religion who had pitched upon three points touching Religion. 1, to enquire what is the cause of the decay of preaching. 2, the encrease of poperie. 3, And of scandalous ministers. Soe it was ordered by the Howse that this subcommittee should bee turned into a select Committee who weere appointed to meete on Tuesday next at 2 of the clocke in the afternoone.[1]

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[14] Northcote (81-82) gives an account of a debate preceding this order.

[15] On Dec. 18 Palmer's diary comes to an end (except for a page of notes taken Jan. 4, 1641).

Then ther was much dispute about Bishop Wrenne[2] and his wicked doings and great feares that hee would flie away: and that certaine petitions preferred against him might bee read. Divers spake to this purpose what course might bee used to stay him, and whether a reporte of the charge of the Lord Keeper should bee reported first or not.

I saied the reporte might require dispute, but the petition being read might bee referred to a Committee. For Bishop Wrens stay wee might doe what was used ancientlie as appeares upon Record; either to have him putt into safe custodie or to give mainpernors[3] for his safe foorth-comming, as ancientlie one of his owne coate and sleeves did which was by neare 20 barons knights and Bishops.

f. 88a] Then the Howse fell into the further dispute of his evill demeanors: and I shewed that the course hee tooke was *radicitus evellere* all religion and pietie, which wee might know by the Testimonie of an ancient partie that lived in Queene Maries time, who was living in a towne of Suffolk when his devices weere first sett afoote ther: and upon seeing them: Oh saied the partie have I lived to see the old religion (meaning poperie) restored againe.

Soe at last it was ordered after it had been severallie suggested that ther weere great probabilities of his intendment to flie it was resolved, That a message should bee sent to the Lords to acquaint ther Lordships that ther are certaine Informations of an high nature against the Bishop of Ely concerning the setting upp of Idolatrie and superstition in divers places and exercising some acts of it in his owne person and divers other matters of great importance. They have information that hee endeavours an escape: and therfore to desire ther Lordships that ther may bee some care taken that hee may give good securitie for his abiding the iudgment of the Parliament.

Mr. Hamden to goe with the message. I was alsoe named by divers to goe upp but called on Mr. Hamden. Mr. Pymm named him before the order was drawen; and I spake to the orders off the Howse that noe private men ought to name our messenger to bee sent but the howse ought to name him.[4] Soe Mr. Hamden went upp with the message and then followed some other motions touching the calamities Bishop Wrenn had brought upon divers places in the Dioces of Norwich during his being Bishop ther.

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[1] See C.J. II, 54, for an account of the functions of this committee, and, for a fuller version of the same statement, see *Diary of John Rous* (*Camden Soc.*, 1856), 112-113. See also Thomas May, *History of the Parliament* (1812), 55.

[2] See Prynne, *Canterburies Doome* (1646), 153, 373-376; Heylyn, *Cyprianus Anglicus* (1671), 291, 295, 442; *Newes from Norwich*, A 3 *verso*.

[3] Mainperior—a surety for a prisoner's appearance in court on a specified day. *New Eng. Dict.*

Mr. Saint John made a long and excellent report touching a great part of the charge against the Lord Keeper, etc., and desired to know if wee would first vote that and send upp this charge against him.[5] Mr. Finch had moved iust as Mr. St. John began that the Lord Keeper might bee heard.

I moved that wee might doe soe, for I conceived the offence of Sir Thomas de Weyland and the Judges in E. 1 time for which some lost ther lives others weere fined and exiled. The like punishments weere in other Kings times of uniust Judges which I needed not to cite. I conceived this mans offences weere transcendent both for the manner and the measure above all thers. His Majestie is a lover of Justice, equall to anie Prince in the world. The verie heathens weere such haters of iniustice as Cambises a Persian king, tooke the skinne of an uniust Judge, and had it bound about the pillars of the Justice seate, and made his owne sonne sitt in iudgment ther.

Then followed a long and tedious dispute whether wee should vote the Lorde Keeper to bee guiltie of Treason and other crimes or whether according to Mr. Finches motion wee should first heare the Lord Keeper according to his desire:[6] and it was shewed that hee had gotten libertie of the Lords of the Upper Howse to come into this Howse. Soe at last wee laied our voting aside till Monday morning: and it was after disputed how hee should come in heere like others to sitt with his hatt on as once the Earle of Southampton did and others did that came to conferre heere; or to stand bare-headed: as other petitioners, but this dispute was alsoe laied aside: and this busines putt offe to bee resumed againe on Monday morning, and soe the Lord Keeper might if hee would take notice of it and present himselfe.

Then Mr. Hamden made report that hee had done the message to the Lords touching Bishop Wrenn, and ther Lordships ans△eare was, that they ordered the saied Bishop Wrenn to give 10,000£ baile to abide the Judgment of the Parliament, and in the meanetime to enter into a reconisance of 10,000£ to putt in the saied baile by Wednesday next.

f. 89a] Post meridiem

Wee mett in the Exchecquer chamber in Mr. Burtons busines betweene two and three of the clocke in the afternoone: being a select committee appointed upon his and Mr. Prinns petitions.

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[4] The passage "I was alsoe named . . . but the howse ought to name him." is written in cipher. The accusation against Wren is to be found in C.J. II, 54-55; L.J. IV, 112-113.

[5] St. John's report is more detailed in Northcote, 83-84.

[6] Peyton (f. 52) gives four speeches on this matter and Northcote (85-87) many others, including one by Wingate foreshadowing Finch's flight.

Some of us being of the Committee for the shipp-busines that was adiourned hither this afternoone, adiourned it hither againe to this place on Monday next at two of the clocke in the afternoone.

After this wee sate some of us above halfe an howre before wee could gett 8 of the Committee to sitt: without which number at the least wee could not proceede. I first read Mr. Burtons petition being the same which was before read in the Howse wheere see it.[7]

His counsell opened his cause much according to the contents of his petition, which consisted of two partes. First the uniust proceedings against him in the high Commission Court, 2dly in the Starre-chamber. First for the high Commission proceedings it was proved that Mr. Burton was summoned to bee at Cheswicke Dr. Ducks howse being the Bishop of Londons Chancellor: after hee had preached the two sermons[8] mentioned in the petition. That Mr. Burton appearing ther with some of his parishioners, Dr. Duck saied hee had articles against him. But hee tendred him the oath *ex officio* being alone: soe as that was proved by Mr. Burtons assertion alone. Then was a copie of those articles produced which Dr. Ducke would have administred to Mr. Burton if hee had taken the oath *ex officio,* in which hee was questioned for those honest passages in his saied sermons, by which hee confuted the Arminian heresie, and inveighed against divers superstitions and innovations. And Dr. Ducke at Cheswicke shewed in private the saied Articles to Mr. Burton before hee tendred him the [oath]. His being at Cheswicke was Tuesday Dec. 6, 1636. Hee appealed to the King three times, which was entred by Francis Mondy the Register. On Friday Dec. 16, 1636, Dr. Ducke and some other Doctors mett at Doctors Commons and sent one John Wragg a messenger to Mr. Burton to come to them; but hee refusing to come but persisting in his former appeale, after they had thrice summoned him they proceeded to suspend him from his ministeriall function, and from his benefice of St. Matthew Friday Streete. And after followed other proceedings against him in the high Commission Court: wheereupon hee kept his howse: till it was at last broaken open by warrant from the high Commissioners. Dr. Ducke being present acknowledged those passages at Cheswicke: but denied that hee commanded Mr. Burton to take the oath or could doe it being a single Commissioner: but onlie that hee demanded whether hee would take the oath *ex officio* or not. And though the Register had entred it by the worde *requisitus;* yet hee saied that was his mistake. Hee acknowledged [*blank*]

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[7] For Burton's petition see Rushworth, IV, 78-79.

[8] These two sermons were afterwards published under the title "For God and the King."

December 21. Monday. 1640.

A petition of the Mayor and Burgesses of Weymouth and Melcomb Regis touching divers greivances as the Monopolie of salt, shipp-monie coate and conduct monie and divers impositions upon marchandize and other oppressions and detention of ther merchandize.

Divers spake to this petition and wished that the goods and merchandizes detained might bee delivered to the owners, and the parties that exacted those new impositions might bee sent for. The cheife of those parties was one Thomas Horth, who was alreadie under custodie of the Serieant, and his patent brought in.

And then at last[1] a select Committee was appointed to consider of that petition, and of the petitions of all other Port-townes, and of the Patents of Soape Leather Salt and wine; and to provide redresse. And it was soe ordered to meete Wednesday next in the Starre chamber at two of the clocke.

Sir Thomas Roe brought a message from the King touching Sir Edward Cokes bookes which weere in Secretarie Windebankes hande should bee delivered before Christmas Eve into the hands of Sir Randolph Crew one of his executors: which message gave the Howse great content. The same f. 90a] Sir Thomas Roe added that the saied Sir Edward Cokes comment on Magna Charta was in Sir John Cokes hande.[2]

Then Mr. Finch moved that the Lorde Keeper might bee called in.

Soe it was disputed in what posture hee should bee placed upon his comming in whether to sitt or stande. I spake that I thought hee ought to come within the barre but to stande and not to sitt: for though hee came not as an absolute Delinquent, yet hee came as a Petitioner and not as a cleare man. For then if hee came as a Peere to conferre hee ought to sitt and sitt covered.[3]

But at last after other disputes it was agreed hee should have a chaire and to leave it to his owne discretion to sitt or stande. Soe a chaire was sett on the left side of the Howse a little above the barre and soe hee was called in.

The Serjeant came in before him and hee brought the purse with the great seale in it himselfe and having made 3 reverences[4] hee laied the purse on the chaire; and stood by it leaning his left hand on it: and soe hee made a long and well composed speech, in which hee laboured to excuse or mitigate all his offences.

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[1] There was some debate. See Northcote, 88.

[2] *Cf.* Sir John Coke the Younger to his father Dec. 22. *Coke MSS.* (*Hist. MSS. Comn.*, XII, Pt. ii), II, 270.

[3] Northcote (89-90) in reporting this speech of D'Ewes cites a precedent that, strange to say, D'Ewes leaves out of his own speech: "De la Poole, Duke of Suffolk came into the house without either, and came within the bar."

[4] "My Lord Keeper being sent for in by the Mace, came forward to the middle of the Barre, and there made a congee to the Speaker, and turning to the right hand did the same to that side, and turning agen to the other saluted that side of the house likewise; and then resting his countenance towards the chaire." Peyton, f. 52.

But before hee begann to speake, the Speaker sitting in his chaire with his hatt on saied to him, My Lorde Keeper this Howse hath been acquainted by a member therof that yow desired to bee heard heere, and the Howse is now readie to heare your Lordship speake and doe give yow free libertie to speake. Hee afterwards tolde him, Your Lordship may sitt downe if yow please.

But hee spake standing;[5] and soe having ended his speech after a reverence made tooke upp the purse and departed. The Serjeant stood all the time by him on his right hande with his mace on his right shoulder.

After his departure divers spake, and it was the generall sence of them all that hee had rather aggravated then mitigated his crimes by his speech.[6] And therfore most concluded him guiltie and wished wee might goe on to vote him culpable as wee weere proceeding on Saturday last.

Then the Speaker propounded what question wee should putt whether according to the opinion of the Committee wee should vote him to bee guiltie of high treason and of other misdemeanours.

Mr. Bridgman[7] moved that wee should not vote him guiltie of high treason.

Mr. Whitlocke spake to the contrarie and prooved him by divers instances and arguments to bee guiltie of High Treason.

Mr. Comptroller moved to know whether this weere a Treason within the statute[8] or by the construction of this Howse.

Mr. Pymme moved that to endeavour the subversion of the Lawes of this kingdome was Treason of the highest Nature, and soe wished wee might proceed to the voteing of the offence of Treason.

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[5] For the standard report of this speech see *S. and P.*, 169-178; Rushworth, IV, 124-128; or Nalson, I, 693-697. Northcote reports it at length (90-94).

[6] As to the effects of Finch's speech, accounts differ. Peyton (f. 53) says: "He made a long and eligant speech unto the house, in every particular of which hee concluded with that submission to the Judgment and wisdome of that house, that hee seemed altogether to plead for mercie, ect. butt it nothing prevailed with the house; for his offences were presently voted." Rushworth (IV, 128) says: "Many were exceedingly taken with his Eloquence and Carriage; and it was a sad sight to see a person of his Greatness, Parts and Favour, to appear in such a Posture before such an Assembly to plead for his Life and Fortunes." *Cf.* Whitelocke, I, 115. Sir John Coke the Younger (*Coke MSS.* II, 270) says: "The Lord Keeper coursed us with a many fair words and much eloquence, but offering nothing material for their excuse or justification, only discharging himself in some things upon His Majesty's commands."

[7] This speech of Bridgman and others preceding it, which are unrecorded by D'Ewes, are given in Northcote (94-96). Rigby's speech is given at even greater length in Rushworth (IV, 128-129) and Nalson (I, 697-698). In the debate which follows, Northcote gives the same speakers as D'Ewes but in every case reports the speech at greater length.

[8] Treason was defined by the 25 Ed. 3, stat. 5, c. 2. *Stat. of the Realm,* I, 319-320. *Cf.* Taswell-Langmead, *Eng. Const. Hist.* (1919), 372-383.

Sir Henrie Mildmay spake to deferre the Question but it was generallie distasted.

Mr. Whisteler desired to know how wee should proceed to charge him with Treason at Common law or by statute law.

Mr. Perd spake exceeding well, to shew that his deniing to putt the vote of the Howse[9] was Treason: for this was to blow upp the Parliament without gunn-powder.[10] 2dly, His acting of the Forrest busines was Treasonable; making a forme of just proceedings. But 3dly for shipp-monie that was Treason in the highest nature. Hee was a broaker in that busines, and declared the Legalitie of it in his circuit, and that an act of Parliament could not cutt it offe. 4, The declaration after the last Parliament was a Treasonable worke for it was to divide the King and the People. Soe hee desired wee should vote him to bee guiltie.

f. 91a] Mr. Holburne spake to most of those fowre offences Mr. Perd had spoaken unto and shewed them to bee Treason.

Mr. Crew spake to the same purpose and then concluded that the Lord Keeper was guiltie of severall Treasons, and soe desired wee might vote it.

Mr. Hide shewed with how much moderation and compassion of the Lord Keepers person the Committee to draw upp his charge had proceeded and that the case of his being guiltie of Treason was most clearelie to all ther consciences.

Then the Speaker putt the Question, etc. And resolved upon Question, That the Lorde Keeper was guiltie of High Treason and of divers other misdemeanors. Ther weere only two or three Noes.[11] And 2dly resolved that wee should send upp to accuse the saied John Lorde Finch Lord Keeper of the great seale of England in the name of this Howse and of all the Commons of England etc. speedilie: (in the same wordes as in the Archbishopp of Canterburies question etc.) And the Lord Falkland[12] was named to goe upp with the message: but that it being now past twelve of the clocke wee understood the Lords weere risen. To this 2d Question all saied I, and not one Noe.

Post meridiem.

Wee mett in the Committee of Shipp-monie in the Inner starre-chamber betweene two and three of the clocke in the afternoone; wheere weere divers complaints against Sir Edward Bainton who was sheriffe of Wiltshire in 1638,[13] of great distresses taken for small sommes assessed, and noe restitution made. That hee imploied one Edmund Brunsdon a most infamous man to bee his Bailif, to distraine men. That in the towne of Milton in which Sir Edward Bainton had lands called Clinches which landes weere taxed by the parish at six pounds: but hee eased his owne tenants and laied the whole, being above 31£ upon fowre men of the parish which weere the Assessors: upon one of whome hee laied above 6£ moore then hee had been assessed, and distrained 3 horses worth 16£ in the whole: wheereas his whole tax was betweene 10 and 11£ and never anie restitution yet made. The saied Brunsdon told others that weere backward in paiing the shipp-monie that they were rebels; and that hee did not doubt but that if Sir Edward Bainton had been in towne to have had him imprisoned, and hee hoped to have had them hanged. That the saied Sir Edward Bainton did cause severall distresses to bee taken after his yeare was out: and when men offerd to pay the saied Brunsdon the monie assessed, hee would refuse it; and cause them to bee sent for upp by messengers before the Counsell table, to ther great cost and trouble. The saied Brunsdens custome alsoe was to distraine mens goods before hee demanded shipp-monie; and then made them pay severall somms before the deliverie of those distresses: soe as at a reasonable estimate it was thought hee had in Wiltshire in a few yeares by such unlawfull meanes one thousand pounds from the Kings subjects ther. Hee did not at first demand a sett or certaine fee, for his distraining till of late time; but then did much worse for sometimes hee tooke almost as much to restore a distresse as hee did for the shipp-monie it selfe distrained for. And that the same Brunsdon did severallie threaten men that would not pay. Divers great distresses taken much above the value of the shipp-monie assessed and never anie restitution yet made.

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[9] March 2, 1629.

[10] The editor of Northcote (98, n.) tries to show that D'Ewes's report of Peard's speech is incorrect and in so doing quotes D'Ewes as saying: "Mr. Perd spoke exceeding well to shew this denying to put the vote *of treason* was to blow up the Parliament without gunpowder."

[11] According to *D.O.* (15) "he was voted by all the House except 7 or 8 to be a Traytor."

[12] It is interesting and significant that Falkland, a later moderate, and a leader of the moderates, should have taken up this message accusing Finch of treason.

Adiourned too morrow at this place at two of the clocke in the afternoone.

f. 92a] December 22. Tuesday. 1640.

The unlawfull leviing of shipp-timber in Yorkeshire and of monie to carrie that shipp-timber referred to the Committee to enquire of the abuses of Lord Leiftenants and Deputie Leiftenants.

Three that weere to bee naturalized[1] by Statute came into the Howse and standing at the table, the clarke read to them the oaths of allegiance and supremacie, and they pronounced it after him and soe kissed the booke.

Mr. Cage begann to move when the Serjeant went out with the mace for them; and Mr. Rouse when hee went out with them beganne to speake but both weere reproved, and silence enioined till the Mace was brought backe and laied on the table before the Clarke.

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[13] An instance in point is to be found in *Cal. St. P. Dom. 1639-1640,* 537.

[1] "Five men and one woman." Peyton, f. 53.

A petition against divers proiectors that would entitle the King to all the lands in England betweene high-water and Low-water marke, which are worth 1,000,000£ per annum, and soe it was referred to the Committee for Sutton Marsh: and that Committee was enlarged.

A Committee appointed to enquire of Bishop Wrenn etc., Checquer Court this afternoone at two of the clocke, to which I spake to further it.

Then weere read the Articles prepared by the Committee against the Lorde Keeper which weere all voted against him.

The articles being read[2] it was severallie disputed whither wee should send upp the Lorde Falkeland with a message to have the Lorde Keeper committed as was agreed yesterday: for wee weere enformed that the Lord Keeper was fledd,[3] or whether wee should send upp to have the Cheife Justice Brampston Cheife Baron Davenport Justice Barkeley Justice Crawley Baron Treavor and Baron Weston to putt in securitie by themselves and others to abide the iudgment of Parliament for that ther are Informations and severall proceedings in examinations of crimes of an high nature against them in this Howse.

After manie disputes what wee should doe some saied the Lordes weere not sett, by reason none was yet appointed by commission. I spake that I did not doubt the Lordes would soon bee sett for ther weere presidents that in the absence of the Lorde Keeper the Lordes themselves had sometimes appointed the Lorde Treasurour, sometimes the Lorde cheife Justice of the Kings bench and sometimes the Lord cheife Justice of the Common pleas to supplie the Lorde Keepers place in his absence.

Shortelie after wee heard the Lordes weere sett, and then after divers motions Sir Walter Earle stood upp and saied that hee thought the Howse was not yet readie for this message because ther was noe complaint in against them in the Upper Howse.

I stood upp, and saied, That first I desired wee might proceede with the message against the Judges and lay aside that concerning the Lord Keeper. What was objected by a worthie member that noe complaint was yet made against them in the Upper Howse. That needed not for it was sufficient that they weere questioned by us not onlie by information of others, but by ther owne confession, which is sufficient cause for us to desire they may putt in securitie. For Rot. Parl. de a°. 28°. H. 6, n°. 16.[4] The Commons required that Michael de la Poole Duke of Suffolke might upon his owne confession bee committed to warde. Now this confession being before anie proceedings weere had against him in the Lords Howse; it must needes bee made in the Howse of Commons or to some of the Howse of commons.

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[2] The articles may be found in *Parl. Hist.* IX, 178-179.

[3] Peyton (f. 53) under entry of Dec. 21 says: "This [the Articles against the Lord Keeper] was not delivered to day because the Lords were risen before it was voted and before the next day hee was fled." Rushworth (IV, 129) also under the same date says: "The next Day he was accused before the Lords, but he got up earlier, gave them the slip, and escaped into Holland."

[4] *Rot. Parl.* V, 176-177.

f. 93a] Soe upon my motion and the president I cited ther ceased further agitacion[5] in the saied matter: and soe it was resolved upon question that the saied message should bee sent upp, which being resolved upon ther followed contention in the Howse whoe should bee sent upp with it. Mr. Saint John and Mr. Perd being common lawyers desired to bee excused after they weere named: and soe at last after much time lost in the nomination of divers; one Mr. Waller was pitched upon; which[6] was much disliked by myself and others; hee being a yong man and scarce knowen in the Howse. Soe hee went away with the saied message, and was much out or mistaken in the deliverie of it.[7]

f. 92b] Then it was propounded to the Howse that the bill of subsidie might bee read; and that the Speaker should goe out of the chaire and that the Howse might bee resolved into a Committee; which was done accordinglie and Mr. Whistler a Common lawyer was called to sitt in the chaire wheere the clarke of the Parliament sate. And after wee had begunne to read the bill of subsidies Mr. Whistler acquainted us with divers passages yet not perfected in it; wheereupon the Howse resolved to proceede noe further in it, as being not yet ripe to bee debated and disputed in a committee. And soe the Serjeant was called to bring backe the mace, and the Speaker went into his chaire after Mr. Whistler was gone out of the clarkes chaire and then the clarke alsoe returned to his chaire.

And then the Howse proceeded with other busines.

f. 93a] After the Speaker was again sett a petition was read against the vicar of Preston[8] in Northamptonshire that had spooken verie infamouslie and ignominouslie of this Parliament being besides a man of a debauched life. It was ordered the Serjeant should send for him as for a delinquent.

Another petition was read against Sir Robert Banaster, who was latelie sheriffe of that sheere about his rigorous leviing of shipp-monie,[9] which was referred to the Committee of Shipp-monie.

After followed divers disputes when wee should recede or end our sitting and when wee should assemble againe. I besides divers others spake to it, and desired wee might meete againe on Tuesday next. Soe at last it was resolved upon severall questions first, That wee should recede on Thursday morning next, 2dly, that wee should meete againe on Tuesday next, 3dly, That the Howse should bee called on Thursday next, 4thly That all the Committees should sitt during that time if they would and adiourne themselves.

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[5] For this "further agitacion" see Northcote, 101-102.

[6] The rest of this sentence was written in cipher.

[7] For the delivery of the message see L.J. IV, 114-115. D'Ewes exaggerates the inaccuracy of the delivery.

[8] George Preston, vicar of Rothers Thorpe, Northampton. See below, p. 270.

[9] Instances of abuses cited in *Cal. St. P. Dom, 1637,* 406-407, 415, *et passim.*

Before these two last particulars weere voted Mr. Waller returned from the Lordes; and then presentlie before anie reporte by him made of the Lordes answeare; the Lorde Falkland was instantlie sent upp to the Lordes with the message appointed yesterday touching the Lord Keeper.[10] I went away with him to the Upper Howse, and ther Sir Edward Littleton knight Lord Cheife Justice of the Common pleas supplied the Lorde Keepers place, and came downe to the raile at the Lower end of the Upper Howse, and tooke the message which the Lord Falkland mistooke in the deliverie of it. And after a little withdrawing the Lord Falkeland was called in againe, but I was not with him nor in the Commons Howse when either Mr. Waller or hee made reporte of the Lordes Answeares to the saied two severall messages but I heard:

That the answeare the saied MR. WALLER brought was, That ther Lordships had caused each of the saied Judges to enter into severall bonds of 10,000£ to bee readie on Wednesday, come sennight with sufficient Manucaptors to appeare before ther Lordships to stand to the iudgment of this Parliament or to that effect.

The answeare the LORD FALKLAND brought was; That ther Lordships had alreadie by order sequestred the saied Lord Keeper from the Howse; and would committ him assoon as hee could bee found and that if the Howse of Commons did preferre articles against him they would proceed therin according to Justice[11]

f. 94a] Post meridiem.[12]

In the afternoone the Committee in Mr. Prinns busines of which I was met in the Exchecquer chamber betweene two and three of the clocke in the afternoone. One day had past in it when I was absent. His last or second sentence in the starre chamber was now in question with all the proceedings upon it.[13] This afternoone wee had it proved to us that the court of starre-chamber had refused two of his answeares: the first because it wanted a Counsellors hand; and Mr. Holt his counsell refused to sett his hand to it pretending it was scandalous. His second answeare brought in the day of his censure under the hande of Mr. Tomlins his Counsell; they saied that came too late. They refused divers of his affidavits; and Mr. Goad an officer of the Court would not let him sweare. Soe at last they proceeded against him as taking all the crimes laied against him *pro con-*

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[10] L.J. IV, 115.

[11] "That the Lords had sequestred him from Parliament: and for his commitment they could nott doe it, because hee was nott forthcomming and they had information hee was Fled: and when they should bring their articles of accusation against him, they would proceede with all expedition." Peyton, f. 55.

[12] For minutes of the Committee of Religion on this afternoon, see *Proceedings in Kent, 1640*, 92-94.

[13] The proceedings of this day are related in *A brief Relation of certain . . . Passages and Speeches in the Star Chamber . . . at the censure of . . . Dr. Bastwicke, Mr. Burton and Mr. Prynne. Harl. Misc.* (1808-1810) IV, 12-26.

fesso: and soe proceeded to censure against him and against Mr. Burton and Mr. Dr. Bastwicke, laiing divers pamphlets to ther charges of which neither they or anye of them weere prooved to bee the authors. Soe a copie of the Sentence pronounced against them in the Starre-chamber was read. Each fined 5,000£ apeice, and perpetuall imprisonment. Mr. Prinne to Carnarvan Castle: to have his eares close cutt offe, and to bee branded on one cheeke with the Letter L, on the other with the letter S.[14] The rest of the censure against Mr. Burton and Dr. Bastwick pertaind not to this afternoones worke. Mr. Prinne saied himselfe that hee spake in the Court the day of his sentence, and tolde the Lordes and others ther that they could not proceed to iudgment against him, because nothing was particularie charged against him, hee confessed nothing, they had examined noe witnes to proove anie thing. Then after the sentence was given against him and the other two, it was executed before the sentence was entred in the Register: as the clarkes themselves confessed. Nay wheereas it appeared in the Minum booke of the starre-chamber into which the sentences of each are entred as the Judges pronounced them; that hee was onlie to bee sent to the castle of Carnarven;[15] in the sentence tis drawen upp to bee sent to the iaile of the Castle of Carnarvon: which is a nastie hole without the Castle. For the execution it was cruellie done and the left cheeke burnt twice. The first eare cutt soe close as had not present remedie been applied hee had bledd to death. The left eare hee mangled and cutt in the cheeke neare to the iugular vaine, soe as it both endangered his life, and made it verie difficult to heare. Hee stood on the pillorie neare two howres and a quarter of an howre of that after hee was cutt and mangled. Soe as at the second eare cutting which was the left, hee was readie to die: and yet the bloudie executioner went away soe as they weere compelled to use other meanes to open the pillorie. After this cruell execution hee was sent to the Tower, and after removed before his soares weere healed. The sentence was 13, June 1637. The warrant for his remoovall to Carnarvan iaile dated 20, July 1637, and the execution was the last of June then immediatelie foregoing. Then by an other order of Starre-chamber dated Aug. 27, a°. 1637, Mr. Prinne was removed from the goale of Carnarvon castle to a Castle in the Isle of Jarsey.[16] The gaole was a low roome and uncoverd at the topp and yet divers prisoners kept ther of which divers died a little before the sicknes. But Mr. Prinne being to bee a close prisoner, and some being ther alive still, hee could not have been a close prisoner. And soe hee remained in a chamber in the towne in Carnarvon in the iailors howse till his remoovall to the Isle of Jarsey: they went in a broaken vessell in October 1637, and weere in passing till January 15 ensuing although it is but an 130 leagues.

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[14] Finch said S.L. was to stand for "seditious libeller," but Prynne in a Latin verse composed for the occasion made S.L. mean "Stigmata Laudis" or "Laud's Scars." *A brief Relation, Harl. Misc.* IV, 22.

[15] *Documents Relating to . . . William Prynne,* 63-64.

[16] *Cf. A brief Relation, Harl. Misc.* IV, 22; *Cal. St. P. Dom. 1637,* 421-422.

f. 95a] Wee voted first upon the Question at the Committee sitting verie late, that Mr. Prinne was to bee restored to his practice and profession of an utterbarrister in Lincolns and to the degree of batchelor of art in Oxford.

2dly. The Committee voted upon Question that the second sentence given against Mr. Prinne in the starre-chamber with all the proceedings therupon was uniust, and that it ought to bee reversed; and that Mr. Prinne ought to have recompence for his wrongs and damage therbie sustained.

3dly. Wee voted that the warrant which issued out in October 1637, by which it was appointed that Mr. Prinne should bee conveied by sea from Carnervon to the Isle of Jarsey and his close imprisonment ther was against law.

Wee adiourned the Committee to this place too morrow at two of the clock in the afternoone.

December 23. Wednesday. 1640.

A petition of Sir David Foules concerning the uniust proceedings of the starre-chamber against him for certaine wordes spoaken touching the now Earle of Strafford.[1] Sir David Foules came in and iustified his petition. Soe it was referred to the Committee in Mr. Malevries petition. MR. CATLLIN made a shorte motion touching Norwich before this.

I then preferred a petition of divers of the gentrie and others in Suffolk touching oppressions and innovations in matters of Religion in the Dioces of Norwich,[2] which was not read but referred to the committee for the Dioces of Norwich.

MR. WHITE made a reporte of Mr. Henrie Wilkinsons suffering being a minister from the grand committee of religion which Sir Edward Deering had before made reporte of to the saied grand committee, from a sub-committee, either on Tuesday was sennight.

It was resolved that Edward Fulham the Bishop of Oxfords chaplaine should bee sent for as a delinquent. 2dly Resolved upon question that Dr. Potts[3] now vice-chancellour of Oxford should bee sent for as a delinquent. 3dly, that Mr. Wilkinsons suspension should bee taken offe publikelie and hee to bee restored to his lecture in Oxford: and bee desired to print the sermon if hee soe thinke good himselfe.

Then was a petition read touching the Earle of Straffords oppression of the Northren parts by an arbitrarie goverment for many yeares exercised ther by him: which was referred to a special committee then named; and it was ordered that the same committee should consider of like oppressions in the Marches of Wales, and for excepting the 4 Counties viz. Shropshire Worstershire Glostershire and Hereford Thursday next come sennight at two of the clocke in the afternoone in the Court of wardes.[4] The worde Provinciall Court was in the order; and I desired it might bee left out: although it weere abusivelie now sometimes called: because it was never reduced into the forme of a Province since the Romanes time.

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[1] Sir David Foulis, a member of the Council of the North had, in 1632, resisted compounding for knighthood in Yorkshire and had maligned Wentworth. An information was lodged against him in the Star Chamber, he was stripped of his office, fined 500£ and imprisoned in the Fleet. Rushworth, II, 215-220.

[2] When Bishop Wren was transferred to Ely in 1638, Montague had succeeded him at Norwich.

[3] Dr. Christopher Potter.

Mr. Stroud moved that the saied Committee for the Northren partes might enquire touching the power of the Stannerie Court. But Mr. Hollis moved that it might bee referred to the Committee in Mr. Coritons busines and soe it was ordered to meete to morrow sennight at two of the clocke in the Court of Wardes.

f. 96a] Sir Robert Harlow gave an account how the monie gathered at the Communion had been bestowed.[5]

Alderman Pennington shewed they had gathered in the cittie yet but 13,000£[6] of the last 25,000£ to bee sent to the Northren Counties.

Mr. Treasurour shewed two letters which weere brought to him since hee came into the Howse. Yorke, 18, 1640, The date was of letters or certificates sent to the Earle of Northumberland Lord Generall touching the want of the Kings armie and that the monie sent viz. 30,000£, did not fullie satisfie the monies due to the foote by divers dayes paiment. That on Tuesday next ther will bee six weekes due to the horse troupes. And that it was feared ther would bee some disorder shortelie in the armie for want of paiment. The one letter came from Sir Jacob Ashley, and the second from Sir John Cogniers Leiftenant generall of the horse. These weere both read in the Howse by the clarke.[7]

Sir John Hotham moved that by Jan. 4, next ensuing all the 100,000£ will bee spent and 75,000£ moore: and therfore wished wee might grant 4 subsidies.

Resolved upon question, that the 20,000£ to bee disposed thus 3,000£ to the garrison at Barwicke, 1,000£ to the garrison at Carlile, and 16,000£ to the armie: which is now to bee sent away; with the 30,000£ to bee sent to pay the contribution of the Northren armies.

For the wordes iustlie suspected, and how to trie whether such weere papists or noe, after Mr. Treasurour had shewed that all knowen papists weere discharged that had anie command in the Kings armie it was resolved upon question in the Howse, that to all such iustlie suspected the oaths of allegiance and supremacie might bee tendred, and that such as would take them should bee freed from suspition.

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[4] "This Committee is to consider of the Jurisdiction of the Court of York, and of the Court of the Council of the Marches; and to consider how far the thirteen shires of Wales are subject to the jurisdiction of that Court." C.J. II, 57.

[5] This is given in C.J. (II, 57-58) and in Nalson (I, 700). They differ in their totals only because of Nalson's mistake in addition. 84£ 16s 2d, as given in C.J., differs but slightly from Peyton's (f. 56) total of 84£ 6s. 2d.

[6] 13,500. Northcote, 103.

[7] The letter from Conyers to Northumberland was enclosed in one to Edward, Viscount Conway, dated Dec. 18. See *Cal. St. P. Dom. 1640-1641*, 320-321.

Sir Walter Earle moved that the Lords commissioners had found meanes to returne the 30,000£ to returne it into the North, which motion was verie well allowed.

Then it was moved that wee should grant 4 subsidies in leiw of the two, which would save all further feare of the want of monie, and the frequent feares and rumors weere brought up concerning that particular: but this motion was generallie distasted.

Sir John Strangwaies moved that the English armie might bee drawen together; and one sent to command in cheife in person amongst them.[8] And that the trained bands of Yorkeshire might bee readie at 24 houres warning; and that if the Scotts should at all attempt anie thing against ther commanders wills; our armie with the helpe of those trained bands might bee able to repell and represse violence.

Sir Henry Anderson moved that an end might bee added to the treatie, and to the maintenance of the armies or that some other course might bee taken: but that motion was generallie disliked.

Soe after divers other motions[9] it was at last agreed that wee should resolve the howse into a Committee.

But Mr. Jefferay Palmer made an unseasonable motion touching a clause in Sir John Cogniers letter above mentioned about his desire to know if hee should practice or exercize martiall law, and desired wee might give noe approbation to that clause. But it was answeared by Mr. Treasurour and Mr. Glinne that the noble gentlemans letters weere misinterpreted by Mr. Palmer, and that hee desired not to have power to exercize martiall law, but rather declined it; for his wordes are that, hee would bee loath to bee hanged for hanging another man by martiall law.[10]

f. 97a] Soe the Howse was resolved into a Committee. Mr. Speaker went out of the chaire and Mr. Whistler came into it.

The first debate that was fallen upon was whether wee should grant 4 subsidies or not.

I saied it weere fitt wee should make the plaister as bigg as the soare. The guift of 4 subsidies is a vast guift and such as hath scarce been knowen at the end of a Parliament much lesse at the beginning. Yet the necessitie is now great; never greater since the Danes over ran England. I was at first against the altering of the manner of the guift; but now for the degrees and measure of giving wee shall not neede much dispute. For the somme of 75,000£ by the 4 day of January next will bee due to the Kings armie and Northren Counties above the 100,000£ intended to bee granted; soe as much alsoe must bee added to send away the souldiers and somewhat will bee lost in the collection. But for our securitie wee have a president which was in H. 6 or E. 4 time. A great aid was granted to the King upon an expedition intended: and as it appeares upon the Parliament rolle; if hee went on with his armie soe much was to bee paied etc., soe heere. Then others spake alsoe to the same effect.

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[8] ". . . Lord General being sick, that His Majesty be moved to appoint some Commander-in-chief." Northcote, 105.

[9] Stroud moved "for reading subsidy bill." Northcote, 105.

[10] "I beseech your order what is to be done in matter of life and death, for I should be loath to be hung for hanging a villain." Conyers to Northumberland. *Cal. St. P. Dom. 1640-1641*, 321.

Then wee understood a message was sent from the Lords; and soe Mr. Whistler went aside and Mr. Speaker came into the chaire.

An act for the sale of certaine lands for the paiment of the detts of Thomas late Earle of Winchelsey was sent downe by Mr. Serjeant Aylif and Mr. Serjeant Whitfeld.

Soe after ther departure the Serjeant carried away the mace and the Speaker went out of the chaire; and Mr. Whistler came againe into the chaire wheere the clarke of the Parliament sate.

Then followed a new and a long debatement whether wee should give three or fowre subsidies,[11] and the greater vote enclined to fowre. Then ther grew a long and new debate whether the Question should bee putt for 3 subsidies or fowre, to which I spake and at last it was putt of fowre in manner following: As manie as are of opinion that wee shall give two subsidies moore to bee added to the other two subsidies alreadie agreed on to bee paied to the same uses as the former two, or to such other uses as this Howse shall order let them say I. And soe resolved.

Then for the dayes of paiment ther was little dispute. And it was resolved upon the question that the first two subsidies should bee paied the 10 day of February, and then upon another question it was resolved that the two last subsidies should bee paied in the 10th day of May next ensuing.

Mr. Treasurour moved that wee might consider too morrow morning to make Treasurours to receive this monie.

Sir John Hotham moved that Sir Thomas Barrington Mr. Capell and Sir Robert Pie might bee Treasurours to receive this monie. Soe they all severallie first Mr. Capell next Sir Thomas Barrington and lastlie Sir Robert Pie declared ther readines and willingnes to accept of that service if the Howse soe thought good. But those who lent us the 100,000£ did not both agree to accept of those Treasurours: nor was the Chamber of London agreed upon for the place of paiment, although it was proposed.

[11] Northcote (106-107) records several speeches on this subject.

Soe it was moved the cinque ports might bee free from the subsidies now granted but others spake against it,[12] and soe nothing was concluded.

f. 98a] Then Mr. Whistler went out of the Clarkes chaire the Speaker returned to his owne and the mace was brought upp, and the clarke tooke his chaire againe.

Then MR. WHISTLER made a reporte verie breiflie of what had been done and which wee had all heard, and then the Speaker putt the same questions which had been putt at the saied Committee by Mr. Whistler, viz., whether wee should grant two subsidies moore over and above them that had been granted, which was ruled affirmativelie as before; and 2dly that the first 2 subsidies should bee paied the 10th day of February next ensuing, and the last 2 subsidies the 10th day of May next following. And then it was appointed that the saied subsidie bill should bee perfected, and the Committee for the same subsidie bill to meete and prepare and fitt it for the Howse that it may bee brought in too morrow morning, to meete in the checquer Court at 2 of the clocke this afternoone.

Then MR. PYMME moved that on Tuesday next when the Kings revenue came to bee considered and his expences wee might first consider of the matter of the navie, which was ordered accordinglie.

The busines touching the letters ad Administration served upon Mr. Camvill a member of this Howse by Sir Edward Savage was referred to the Committee of Priviledges: and they to sitt at two of the Clocke this afternoone.

Upon SIR NEVILL POOLES motion it was agreed that the clarke should give out copies of the Lord Keepers speech; (being now himselfe fledd,) which hee spake in this Howse on Saturday last.

Post meridiem.

The Committee in Mr. Burtons busines and Mr. Prins, of which I was [met] betweene two and three of the clocke. Then Dr. Helyn being demanded the extracts hee had shewed at Mr. Lenets howse which hee promised yesterday heere at the Committee to bring this day, hee drew them out; being a little booke full; and saied they weere such as Mr. Noyes youth or boy delivered him, and saied hee was sent for as a witnes, and therfore desired to know [whether] wee demanded these notes of him as onlie to cleare this cause, or to make use of them against him. Wee spake divers of us to it. I saied that I ever tooke Dr. Helin to have been sent for to this Committee as a delinquent, and not as a meere witnes. That hee is charged in Mr. Prinns petition to have contrived and fomented those sadd and tragicall proceedings against Mr. Prinne. That hee had before saied to this committee that hee had not[h]ing of his notes remaining: till yesterday when hee was charged to have shewed some notes at Mr. Lenets and then hee confessed hee shewed them at Mr. Lenets and promised us to bring them if hee could find them without anie condition or limitation. And therfore hee ought now to deliver them without further exception.

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[12] Northcote (108-109) gives seven speakers here.

And soe a little after hee delivered in the saied papers to the Committee. And then after upon divers other questions hee confessed when hee delivered the notes hee had given Mr. Noy hee desired a copie of them, and that after Mr. Noy sent him those notes by his boy: which shewed plainlie they weere a direct copie of his notes. Then Mr. Prinne shewed divers printed bookes in which hee had libelled against him by name, and in his sermons impliedlie: which is too long to sett downe.

Then wee entred upon Mr. Burtons businesse and somewhat was spoaken upon the proceedings against him in the high commission Court which weere handled at a former sitting wee had. Then wee entred upon the suite in the starre chamber. Mr. Denbigh the Serjeant that brake it open his howse in Friday streete in the night confessed hee did soe: and shewed his warrant under the hands of divers of the starre chamber Lordes dat[ed] February 1, a°. 1636, that hee should take Mr. Burtons person: but ther was noe clause in the warrant to breake open Mr. Burtons howse: and besides ther was noe cause sett foorth in the warrant why to take him and imprison him. The Serjeant confessed alsoe that hee carried Mr. Burton to a constable, committed him to his charge and soe medled noe farther in it. The information in the starre-chamber was putt in May 11th, 1637, against Mr. Burton. Adiourned to Tuesday next at two of the clocke, to this place.

f. 99a] December 24. Thursday. 1640.

An act for the reformation of abuses in the elections of Knights citizens and burgesses, etc. read the first time. Sir Robert Pie begann to speake to the Bill, but hee was tolde it was not to bee spoaken unto upon the first reading, but after the second reading and soe hee sate downe.

An act for redresse of abuses in the Stannerie Courts of Cornwall and Devonshire etc. the first time of the reading.

The busines touching the leviing of monie by musketiers, the leviing of monie for carriing shipp-timber etc., in Yorkeshire referred to a speciall Committee; to meete this day sennight in the Checquer court at two of the clocke in the afternoone.

Upon Mr. Glinns motion and reporte from the Committee of Greivances it was ordered that Alderman Abel should bee kept under the safe and strict custodie of the Serjeant.

Hee reported likewise from the Committee of Recusants that a person pretending to bee of a Lords retinue of the Upper Howse refused to give in his name after some dispute about it. It was ordered that if anie did refuse to give in the name of his lodgers or anie man refused to give his owne name hee should bee bound to the good behaviour, and if hee pretended to bee protected by the priviledge of Parliament, then to certifie his name and by whome hee is protected: and the like order to bee sent downe by the knights of the severall counties. And it was the sence of the Howse that neither the Lords nor wee could legallie give protections to anie but to ther and our meniall servants.[1]

Mr. Maynard made report from the Committee of priviledges that Mr. Robert Goodwines election for one of the Burgesses of the burrough of East Greenesstead in Sussex was good. And upon the Question it was resolved to bee soe by the Howse.

Mr. Kirton moved that Wednesday morning next might bee appointed onlie to heare reports from the Committees; and that some reportes touching the Earle of Strafford should then bee first heard to bee made by Mr. Pymme; who made this last motion; being of the subcommittee in the Irish affaires by order of the grand Committee.[2] And those that sitt in the chaire to consider what petitions before them doe conduce to the charges of the Lord Keeper the Lord Strafford the Archbishop of Canterburie the Judges or others.

Then it was moved[3] that a message should goe upp to desire that William Peirce the Bishop of Bath and Wells might give securitie for his appearing before the Lordes in Parliament and to abide the iudgment in Parliament, by reason of his endeavours to subvert and corrupt true religion in his dioces, and for other misdemeanours. And this was put to the question and over ruled upon it. And Sir Henrie Mildmay was to goe upp with the message and soe he went. I was[4] much out in the deliverie of it.

Ordered that Mr. John Gawin tanner that had served Mr. Wheeler a member of the Howse with a subpæna should bee sent for by the Serjeant as a delinquent.

Sir Walter Earle reported that the English Lordes Commissioners which treated with the Scotts weere willing to receive the last 30,000£ which was now to bee paied for the releife of the Northren Counties. And soe it was ordered that the saied Lordes Commissioners or anie three of them should receive the same to convey it to the saied Northren Counties.

Then was read a Bill about the assembling of a Parliament yearelie though the King did not assemble it by writt. (This I misliked but did forbeare to speake against it till the second reading.)[5] 1 *vice*.

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[1] "And the knights for the several counties are to have copies of this order, and to send them to the justices of peace of the several counties for which they serve." C.J. II, 58.

[2] Pym was also to report "concerning the Lord Montnorris, the Lord Dillon, the late Chancellor of Ireland, and the Earl of Kildare." C.J. II, 58.

[3] Before the motion there was some discussion. Northcote, 110-111.

[4] These two words in cipher.

[5] The last sentence is in cipher. This measure, of course, developed later into the Triennial Act. Northcote (112) makes Strode introduce it and D'Ewes (see below, p. 196) makes Cromwell move the second reading of the bill touching the holding of parliaments, "which Mr. Stroud preferred." D'Ewes writing to his wife (*Autobiogra-*

Then the Speaker went out of the chaire and Mr. Whistler came into the clarks chaire etc. And Sir Sidney Mountague moved that the word commons might bee left out in the beginning of the bill of subsidies,[6] being never inserted before the Act of subsidies a°. 3°. Caroli[7] etc. but the Howse allowed it not, to have that worde putt out.

f. 99b] And then when wee begann to read the saied Bill of Subsidies wee found fowre points in question which weere not supplied in the Bill; but weere thought they might safelie bee supplied at the present soe as the sence of the Howse being then in a Committee was that the Speaker should come into the chaire againe and that wee should give the bill the first reading. Soe the Serjeant brought backe the mace and the Speaker tooke his chaire; and Mr. Whistler went out of the clarkes chaire and hee came into it.

Then Mr. Whistler standing neare the speakers chaire made reporte of what wee had treated off; to the saied Speaker and Howse although wee had all heard it. And then the Speaker proposed those 4 matters not yet resolved of to us in the Howse.

f. 100a] 1, The Treasurers not named. 2, The Commissioners names yet not putt in. 3, When the sitting of the Commissioners to assese the subsidies shall first begin. 4, What shall become of the surplusage if anie remaine in the Treasurers hands this Parliament not sitting.

1, To Sir Thomas Barrington Sir Robert Pie and Mr. Capell weere added Alderman Soames[8] Alderman Pennington and Mr. Vassall. The place of

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phy and Correspondence, II, 256) refers to the bill as "first brought into the House by one Mr. William Stroud, a yong man." Mrs. Hutchinson (*Memoirs of the Life of Col. Hutchinson,* Firth ed., N. Y., 1885, I, 167) says of William Pierrepont, whom she and her husband seem to have known, that "by him was that bill promoted and carried on which passed for the continuation of this parliament." The statements are not necessarily in conflict. Strode and Pierrepont were often hereafter to work together. Northcote makes Strode as introducer give a summary of the bill as proposed at this time: "That the Tuesday after Easter they assemble without summons, if not a summons by the King's writ before Tuesday after Ash-Wednesday, and sheriffs to send Warrants for choosing, as if writs had been sent. And if Sheriff fail, then the freeholders and Citizens and burgesses to assemble and make choice, and sheriffs to make returns as upon writs. If any proclamation published to contrary, the party to incur penalty of Sta. 16 R. 2. Sheriffs failing their duty to forfeit 500£, Citizens 200, and burgesses 200 and freeholders 1000. No parliament to be dissolved within 40 days of meeting without consent of King and both houses."

[6] "That preamble of bill of subsidies naming Majesty's subjects the Commons is excepted against by Lords." Northcote, 112. The objection was to the phrase, "the Commons in your high Court of Parliament now assembled" which had been put in the bill after the opening address: "Most gracious Soveraign Your Majesties most humble and loyall Subjects." *Stat. of the Realm,* V, 58.

[7] Northcote's statement (112), "not used till 1° and 3° Car.," is correct, as can be seen from the acts themselves. But it was not until 1628 that the Lords objected, having, according to their own statement, passed it over "in silence" in 1625 (Mass. MS. f. 259). In 1628 the Commons refused to omit the phrase, for it was by deliberate intent that they had added the words as an assertion of their power over the grant of subsidy. L.J. III, 858; Borlase news-letter (Stowe 366) for June 17 and 18.

[8] See above, p. 81, n. 32.

the Treasurie to bee the chamber of London. 3dly, The first sitting of the Commissioners to assesse the subsidies to bee on the 20th day of Januarie. And 4, that the surplusage should bee disposed offe by order of this present Parliament.

And soe some of the blankes in the saied bill being supplied and filled upp the bill of 4 entire subsidies was read 1ª vice. And the Speaker gave a shorter account or repetition of the heads of this bill then of others.

Then upon Mr. Pymms motion it was ordered that in the examination of Sir George Ratclif might bee by the Committee that is to examine the witnesses against the Earle of Strafforde: and to prepare a charge against the saied Sir George Ratclif.

Ordered that the shipp-monie votes by which it is condemned might bee prepared to send upp to the Lordes.[9]

Ordered that it might bee enquired what profit Mr. Horth had made by the proiect of salt: for Sir Robert Pie averred that the King had gained but 700£ by it, and that all salt deteined should bee restored to the owners. Then I moved that the saied Horth had vexed and imprisoned most tradesmen dealing in salt that weere of anie qualitie in most townes in England, by calling them before the Counsell and by other molestations.[10] And upon my mocion it was ordered likewise that, that should bee enquired into by the former Committee appointed for Waymouth.

Then the Speaker adiourned the Howse to Tuesday next at 7 of the clocke in the morning reserving power in the meane time to such committees to meete as will.[11]

After the adiournment of the Howse Sir John Strangwaies moved to have the order read touching the salt busines: but hee [was] answeared by the Speaker being then iust departing out of his chaire and by others, that noe order could bee read after the Howse was adiourned.

Sir Henrie Mildmay before this adiournment was past brought an answeare from the Lordes touching the message sent by him this morning: That ther Lordships would cause the saied Bishopp of Bath and Wells to enter into securitie for his appearing before ther Lordships assoon as they should see him, but at that time hee was not in the Upper Howse. I cannot tell certainlie at what time Sir Henrie Mildmay reported this message, because I was then stept out of the Howse: which was a little before the Speaker went out of the chaire.

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[9] "That the Committees appointed to prepare the charges against the Judges, and the vote for the Ship-money, shall present the same to this House at their first sitting, if they shall be then ready." C.J. II, 58.

[10] Instances of this in *Cal. St. P. Dom. 1640,* 375-376.

[11] Peyton and D'Ewes say that the House adjourned until Tuesday, Dec. 29 (*cf.* Pyne and Woodforde MSS., *Hist. MSS. Comn.,* IX, Pt. ii, 499); there is no report in the *Journals,* nor in Nalson, of any proceedings between the 24th and the 29th. We may be sure then that there is no session of the Commons between these dates. That Rushworth, *D.O.,* and Northcote give debates dated within this time can be explained. Northcote assigns to Dec. 28 what really took place on Dec. 29; *D.O.* (whom Rushworth is following all through this time) gives proceedings for Dec. 29, most of which belong on Jan. 4. But *D.O.* is at all times undependable about dates (notably in saying that the Commons adjourned from Dec. 28 to Jan. 9, whereas we know that the Commons went ahead during that time and met even on New Year's Day. See *D.O.* 18 and Rushworth, IV, 134). *Cf.* above, p. 179.

f. 101a] December 29. Tuesday. 1640.

We mett earlie in the morning and the Bill of the fowre subsidies was read by the clarke, the 2d reading. And the Speaker made a shorte relation of the summe or heads therof. Agreed it should bee committed to a committee of the whole Howse but it was much disputed whether wee should resolve the Howse into a Committee presentlie or deferre it to Thursday morning. I and others spake to have it putt offe to that morning and soe it was, to 8 of the clocke. Ordered.

Then was read the order for this day that it was appointed to debate the Kings revenue and in the first place the matter of the Navie. Sir Edward Wardour[1] was at the doore with some preparations for the ballance of the Kings revenue and expence. Sir Robert Pie[2] was going out to call him; but it was tolde him the Serjeant was to goe and call him and soe hee did. And then being come in hee gave the Serieant a little schedule, which the Serjeant delivered to the Speaker: and then hee offering to speake the Speaker badd him withdraw: And being gone out: the Speaker moved the howse to know if they would give him leave to speake; which being assented unto; hee was againe called in and stood at the place wheere the barre is usuallie laied crosse, but the barre was taken upp, and the Serjeant onlie stood by him with the mace on his right shoulder. The saied Sir Edward Wardour excused himselfe that hee brought in a ballance of the Kings revenues but of olde time viz. of the yeare 1635,[3] which hee yet desired wee might peruse because it would give us some light into the busines.[4]

Then was read the ballance dat. 18, Dec. 1635, and the Kings receits amounted to .... 618,379£

His expences to the summe of .... 636,536£

Soe the expences exceeded the receits .... 18,157£

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[1] Clerk of the Pells.

[2] Auditor of the Exchequer.

[3] Before Wardour was called in, Sir Robert Pye had moved, "That the general balance of the King's revenue be first considered." But added, "That it will require two months to prepare it." Northcote, 113.

[4] According to Northcote (113) Wardour's preliminary remarks were much more extensive. "First gave thanks that Sir Robert Pye is joined with him. That he may receive directions from house for drawing new balance, because divers Monopolies likely to be taken off. Revenue 618,990£ per annum. Not half answered into Exchequer by reason of defalcations. Recusants' compositions not answered into Exchequer, but into other hands. That in Exchequer always at his Majesty's command. Other monies not so. Assignations duly paid to prejudice of Exchequer. Whole revenue for two years anticipated. That his Majesty may have some supply from the house."

Great customes	150,000£
Pettie farmes	60,000£[5]

Then it was moved that the saied ballance might bee laied aside as being useles; and that a ballance might bee hastened for the time that now was: which Sir Robert Pye saied could not bee prepared in 2 months.[6]

Then Mr. Pymme moved that wee being all desirous to accomodate his Majestie for the releife of the navie, that his Majestie farmers and customers would forbeare to pay anie thing till it weere setled by Parliament.

Mr. Treasurour[7] saied hee hoped that a ballance[8] for the maine and greatest summs might bee prepared within 8 dayes; and shewed that his Majesties expences did now farre exceed his revennues, both in his household navie and other expences.

Hee gave in a note dated Dec. 8, 1640, of certaine provisions to bee made for the navie presentlie both for this yeare and the yeare 1641, which came unto 166,011£ 13s. 3d.

Then it was further diverslie spoaken unto.[9]

Then Mr. Pymm desired leave to move about Sir George Ratclife which was granted him; and hee shewed how his case was soe involved with the Leiftenants of Ireland and his Treasons the same that they could not examine witnesses severallie for them: and soe hee read 6 articles that had been prepared against him: and explained them as hee went along to shew upon what grounds and motives they charged him with treason and traiterous practices in each particular. And all these offences weere committed during the time the saied Sir George Ratcliffe was a Counsellour of State in Ireland: desiring to subvert the fundamentall lawes of England and Ireland, and to bring in a tyrannicall and arbitrarie goverment by confederacie with Thomas Earle of Strafford; and the other articles weere much of the same nature with those against the Earle of Strafford.

f. 102a] Then the Speaker after the Clarke had read the articles[10] putt these Questions.

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[5] In cipher is written: "I wrote noe moore of this the particulars for they weere exceedinglie falselie sett downe: I beleeve som particulars not the tenth part sett downe." For the complete list of these particulars of both receipts and expenditures see Gardiner, *The Personal Government of Charles I,* II, Appendix, 344-345, under the column for 1635. A briefer summary is given in *The History of England, 1603-1642,* X, Appendix, 222. The original is to be found in *S. P. Dom. Charles I,* cccxiv, 84.

[6] According to Northcote (114), Sir Robert Pye here gave the particulars of expenditure.

[7] Sir Henry Vane, senior.

[8] From the use of the word *balance* in this discussion, it seems reasonable to suppose that by the word they meant more than an account of revenue and expenditure in the past, that it included also an estimate of future needs; that it was indeed of the nature of the modern budget.

[9] Northcote (115) records a speech by "Sir H. Vane," undoubtedly the son who at this time was treasurer of the navy, a speech which is a detailed account of the needs of the navy.

[10] For the six articles *cf.* Northcote, 115-116; Nalson, I, 701-702.

Resolved then upon Question that the Commons should send upp an accusation against Sir George Ratcliffe of high Treason, in the name of the Commons.

Resolved upon the Question that these articles now read shall bee the ground of the Accusation against the saied Sir George Ratcliffe.

Resolved upon the Question[11] that a message should bee foorthwith sent upp to the Lordes to accuse the saied Sir George Ratcliffe of high Treason. So Mr. Stroud went upp with the message, and performed it.

Then after Mr. Stroud was returned, ther was a new question putt by the Speaker and resolved upon question, that the saied Articles now read against Sir George Ratcliffe should bee engrosse against too morrow.

Then wee returned to treate of the busines of the customes, and wee weere against having anie order made in it for the greater parte.

Then ther came a message from the Lordes sent by Sir Charles Caesar the Master of the Rolls and Mr. Justice Reve[s], which was that wheereas wee had sent upp an accusation of Treason against Sir George Ratcliffe, they desired to know whether wee desired that they should make him safe. Then the saied messengers being withdrawen it was debated what answeare wee should send; and after a little agitation it was agreed that the Speaker should tell them; wee had considered ther Lordships message, and that wee would foorthwith send to them by messengers of our owne. And soe ther messengers being called in the Speaker delivered them that answeare.

Then those messengers being gone wee fell into debate what message wee should send; and it was soon agreed that wee should send upp this message viz. That Sir George Ratcliffe was alreadie in safe custodie in the gatehowse, and that wee purposed to have acquainted ther Lordships with it when wee sent upp shortelie the articles against the said Sir George Ratcliffe but ther Lordships having now prevented us wee left it to ther Lordships consideration to take what further order with him as they shall thinke fitt: And Mr. Prinne [Pym] went upp with the saied message.

It was ordered that Dr. Bastwicks busines should bee referred to the Committee for Mr. Burton and Mr. Prynne of which I was.

Mr. Speaker complained of an iniurie offered to his servant by Mr. Thomas Sheapeheard a Justice of peace and the headborough hee imploied; and it was ordered that Mr. Sheapeheard and the saied headborough should bee sent for as delinquents.[12]

f. 101b] Ordered, That the severall offices of the Custome howse respectivelie to whome it may any way appertaine bee foorthwith enioyned and required not to make anye issues or paiments of ther receits ther without speciall order from this Howse unles it bee the ordinarie assignments for the use of his Majesties howsehold and it is likewise ordered, that a copie of this order bee foorthwith sent to the saied officers of the Custome howse.[13]

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[11] Passed *nullo contradicente,* Northcote, 116.

[12] According to Northcote (117, Northcote's last entry for the Long Parliament), Shepheard had sent Mr. Speaker's servant (Timothy Bartes) to Newcastle and had said that if any parliament man broke the peace "he would lay him by heels."

f. 102] Then it was new disputed whether wee should make anie order touching the Custome-howse and ther paiments. I spake against it alledging that by making an order heere wee should seeme to approve ther uniust taking of Tonnage and Pondage which was first given in the 45 yeare of E. 3. Indeed if wee could restraine the Customers to receive no moore this weere worthie this Howse. But the sence of the Howse was strong the other way; and soe the order was made that they should make noe paiments out but by the speciall order of this Howse, but onlye for the ordinarie assignments of the Kings houshold.

f. 103a] Post Meridiem

The Committee in Mr. Burton and Mr. Prins busines mett in the Checquer chamber of which Committee I was. The first particular busines wee fell upon was the taking away of some of Mr. Burtons bookes by John Wragg a messenger, at the time when the saied Mr. Burtons howse was broaken open in the yeare 1636. Hee onlie produced a generall warrant by which hee was authorized to seize all bookes of that kinde in all suspected places, wheere Brownists and such like weere: and therfore it was suspected hee had some particular warrant.[14] Hee confessed hee had particular direction to search Mr. Burtons studie from the Archbishop of Canterburie and Sir John Lambe. It was prooved that Alderman Abel did send for a crow of iron; and did command one Richard Ives a porter in the Kings name to breake open the doore of Mr. Burtons howse: but hee not doing it at two or three stroakes, the Serjeant at Armes tooke the crow from him and broake open the doore and entring in brake open two doores moore. Mr. Burton was that night committed to the custodie of one John Flemming a Constable; hee was the next morning by a warrant dated at Whitehall February 2, 1636, directed to Mr. Ingram wardein of the Fleete, committed thither close prisoner, soe as no bodie might come to speake with him. Till first hee had libertie in March following to advize with his counsell having then an information in the starre-chamber in against him. June 14, 1637, then ensuing was his censure in the starre-chamber, upon the Information putt in March 11th 1636; against him Mr. Dr. Bastwicke and Mr. Prinne. Mr. Burtons cheife charge was for his two sermons preached November 5, 1636, and an apologie of an appeale with certaine Epistles to them being printed. Mr. Burtons answear was putt in the 10th day of May a°. 13°. Caroli a°. Dm̄. 1637. The certificate dated May 22°, a°. 13°. Caroli Regis did Sir John Brampston knight Lord Cheife Justice. It was expunged 23, die Maii, as was sett downe on the topp of the Answeare that was expunged. Then was read Mr. Burtons answear out of another copie of it; in which hee answeared fullie to all the particular charges. Then Mr. Burton his answeare being expunged, could not safelie bee examined upon Interrogatories, but must of necessitie bee periuried. For hee must confes that to bee his answeare which was not. The reasons hee gave why hee could not therfore without betraiing his cause and violating his conscience answeare to those Interrogatories weere dated June 8, 1637, of which hee sent one copie to the Lorde Keeper and the other into the Starre-chamber court. The maine reason was, because by this hee should confesse him guiltie of publishing those bookes which weere not his as of those which weere his.

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[13] This order is given in the *Journals* (II, 58-59) before the reading of the Articles against Radcliffe.

[14] An abstract of this general warrant is given under date of Feb. 20, 1635-1636, in *Cal. St. P. Dom. 1635-1636*, 242-243; also an abstract with notes stating that by virtue of such warrants as above, the books of Burton and Prynne were taken, and that Sir John Lambe said that such warrants were issued every two or three years.

Adiourned to this place at 2 of the clocke on Thursday next in the afternoone.

December 30. Wednesday. 1640.

The petition of the towne of Wolverstone in Suffolke against Mr. Skynner a scandalous minister in Suffolk was referred to the Committee in Bishop Wrens busines and Mr. Grimston was added to the Committee.[1]

Certaine persons to bee naturalized came in and tooke the oaths of allegiance and supremacie at the Table neare the Speaker. The Serjeant stood on the right side by them all the time with his mace on his right shoulder, hee alsoe brought them into the Howse with his mace in that posture and went with them to the doore. They made three reverences as they came in and three as they went out ther names [*blank*] Herne and [*blank*] Fisher.[2]

The Bill for confirming of severall grants and enfranchisements to divers [of] his Majesties tenants in Lancashire and elsewheere holding of the Dutchie of Lancaster etc., read 2da vice. And it was committed and a committee named to meete on Friday, in the afternoone in the Dutchie Chamber.

A petition from the Ladie Elizabeth[3] late wife of Sir Edward Coke knight and formerlie wife of Sir Christopher Hatton knight, against Matthew Wrenn now Bishop of Elye and the uniust proceedings against her in the Court of Requests. Wheereupon after some disputes past it was committed and a committee was named, to meete this afternoone at two of the clocke in the Court of Request, and to take into consideration the severall Statutes of concealement and limitation de a°. 21°. Jacobi.

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[1] Wingate added also. C.J. II, 59. It would seem as though D'Ewes himself was added to the committee at this time, for he is not given in the original list of December 22 (C.J. II, 56), he does not report any meeting of the committee until that which meets this same afternoon of the 30th, and he says then that he is a member (see below, p. 200).

[2] Jo. de Vischer and Peter Heeren. C.J. II, 60.

[3] Elizabeth, daughter of Thomas, first Earl of Exeter, son of the great Lord Burghley, first married to Sir William (not Sir Christopher) Hatton, nephew of the Lord Chancellor, Sir Christopher Hatton, and inheritor of his wealth. She married Sir Edward Coke in 1599. Her difficulties with her property after her marriage to Coke are graphically told in a paper by her, to be found in *Cal. St. P. Dom. 1634-1635,* 405-406.

Then MR. CROMWELL[4] moved that the bill touching the holding of a Parliament everie yeare whether the King sends out his writt or not which Mr. Stroud preferred might bee read the second time and soe it was.

f. 104a] Divers spake for the furthering of the saied Bill and that it might bee committed.

I spake, That this was a free assemblie and everie man might speake freelie and that everie member was heere bound to speake his conscience: which consideration at this time drew mee to speake. That Parliaments might bee yearelie assembled was the desire of all that wisht well to the publike. It was established by two lawes the one in a°. 4°. E. 3,[5] the other in a°. 36°. E. 3,[6] who was one of the most excellent princes that ever this kingdome had. And the latter statute setteth downe the reason why a Parliament was to bee assembled yearelie viz. for the redresse of divers mischeifes and greivances that dailie happened. And in Rot. Parl. in *1*°. *Parliamento* (for ther weere two Parliaments that yeare as ther weere often in the elder times) de a°. 2do. R. 2, n°. 4°.[7] The King ther made open declaration in Parliament that hee called that Parliament because it is enacted that a Parliament should bee helde once everie yeare: soe as wee may see this law was regarded in those times. And that wee had now latelie seen the lamentable effects of the want of a Parliament for eight or nine yeares. But yet I advized that wee should not provide a remedie worse then the disease. For if wee should give the King offence from whome wee had now received soe much favour since wee sate heere wee might affoord them opportunitie who envied our happie beginnings heere to frame oblique conceits and suspicions against us. That ther weere fundamentall rights of the crowne which weere to bee preserved as well as the fundamentall rights of the subject. That all wee did heere was but *lumen opacum,* and had noe light or force but by the Kings allowing of it. That I hoped Parliaments would bee frequent for the time to come; and that what Tacitus saied of the Emperour Traian, a heathen, that hee did conioine *Imperium et libertatem,* which alsoe Thuanus reported of H. 4 of France, would for the future bee verified of his Majestie. I therfore desired this bill now read might bee wholly withdrawen and that a committee might bee appointed to draw a new Bill to the like purpose. For this bill had manie imperfections in it.

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[4] D'Ewes's second mention of Cromwell.

[5] Cap. 14. "That a Parliament shall be holden every year once." *Stat. of the Realm,* I, 265.

[6] Cap. 10. *Stat. of the Realm,* I, 374.

[7] *Rot. Parl.* III, 32.

f. 103b] For it appointeth if the sheriffs, and the Maiors and Bailiffs of Citties and Burroughs will not elect or choose knights citizens and Burgesses, that then the Freemen shall. And if ther bee noe man to take care of the poll, wee might have heere returned 4,000 knights citizens and Burgesses instead of 400, and wheereas the Bill suggesteth that wee should sitt 40 dayes two months will not cleare the elections which must needes bee full of disorder and confusion. Besides the Bill provides onlie that if the King doe not summon a Parliament then the Freeholders should elect and choose, but ther is noe provision made in case of prorogations. And in Queene Elizabeths time the Parliament begunne in a°. 13° Elizabeth was continued for about nine yeares, and it was twice continued by severall prorogations for about fowre yeares together betweene the severall sessions.[8] And soe now if the King would continue a Parliament 20 yeares together by severall prorogations; here was noe remedie provided in this bill. I therfore desired that wee might have Parliaments yearelie, and that to this purpose wee might have a new bill drawen and for my parte I should thinke my selfe verie happie if I might bee able to conferre anye thing to the framing upp of it. Many cried well spooken: and SIR JOHN WRAY seconded my motion. But the greater parte of the howse weere much sett upon the allowing of the Bill; and soe it was ordered to bee committed. And I was named to bee one of the Committees but I stood upp my selfe desiring to speake to the orders of the Howse, and shewed that because I had spooken against the bodie of the bill I could not bee of the Committee; and soe my name was putt out.

Then MR. TREASUROUR mooved that some of the Customers attended at the doore etc.

f. 104a] Then the Customers weere brought in by the Serjeant. The Customers alledged viz. Sir Nicholas Crispe and others that they had divers sommes to pay out of the customes upon which ther creditt lay, and these monies weere due and appointed to bee paied before the order in this Howse was made yesterday, that they should pay nothing out but the ordinarie assignments to the Kings household, and they acknowledged they did receive Tonnage and Pondage.

Then they being withdrawen it was disputed whether wee should give them libertie to make paiment of anie or all of those summs or whether wee should induct [or] abolish the former order.

This spent a great deale of time in dispute whether wee should abolish the former order divers spake both for it and against it. I spake for the abolishing of it: especiallie Mr. Saint John who shewed the navie was to bee maintained with the customes.

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[8] The fourth parliament of Elizabeth was called May 8, 1572, and was prorogued on June 30. The second session was from Feb. 8 to March 14, 1576; the third from Jan. 16 to March 18, 1581.

I first shewed that yesterday before the order was made, I spake against the making of it, conceiving then those mischeifes and inconveniencies would ensue which wee now find. And I was now of opinion that wee should induct or abolish it. For I saied it was verie true what the gentleman behinde had observed (viz. Mr. Saint John) that the Customes of the realme ancientlie went to the maintenance of the navie. For it appeared by the most ancient autographicall record in the Christian world the Booke of Domesdei fol. i. a. that even in the Saxons times the sea was defended by the soveraigne out of the Customes and the service due by law out of the Coast-townes. And it appeares in the Patent rolls de a°. 6°. E. 1, that the f. 105a] verie cinque ports alone weere to maintaine a navie of 52 saile with 1140 armed souldiers in it which was in that age a considerable supplie when shipps of soe great a burthen as now a daies weere not knowen. And by this meanes did the Kings of England for 450 yeares defend and maintaine the sea, viz. by the tolls and Customes of the kingdome and the ancient services of the sea-townes. And if they tooke anie thing else of ther subjects in shipping or any other assistance, they paied a full and due rate for it, which is in parte evident as by other Recordes soe by two of the great Pipe Rolls being the most august Recorde of England next Domesdei. The first is *Rot. Magnus Pipae de a°. 13°. H. 2. Rot.* 12. $\overline{m}$ 2^{da} *in tergo.*[9] The next is *Rot. Magnus Pipae de a°. 1°. R. Rot. 12°.* $\overline{m}$. 1^{a} *in tergo.*[10] And soe the like examples are frequent in the great Pipe Rolls of King John and in the Records of succeeding Kings. But when once E. 3 in the 43 yeare of his raigne as appeares in Rot. Parl. de a°. 43°. E. 3. N°. 9°.[11] had taken upon him the style and title of King of France; and that therupon Philip de Valois King of that realme having the assistance of some other princes, had provided great sea forces then and not before was that subsidie which wee now call Tonnage and Poundage granted.

Then was the Howse resolved into a grand Committee, Mr. Speaker went out of his chaire and the Clarke removed out of his chaire and Mr. Mainard came into the clarkes chaire.

And soe the saied order made yesterday about the customers was read by Mr. Mainard and divers spake to it some for it and some against it. I spake againe for the induction or abolishing of it. I saied the snare was forseen but wee weere now fallen into it: and therfore wee weere to gett out as well as wee might. For this end wee had noe way but to abolish and induct this order: for if wee continued it it could not stand with the Justice of the Howse to debarre the customers to pay those monies that weere appointed and ordered to bee paied long before our order made. I would not have the order revoked but have it whollie defaced with blotts or obeliskes that it should never moore bee read. I therfore advized a way to reconcile all differences and that was that wee should resolve of the Speakers returning into the chaire and inducting the order; and then for the matter of it which is the Customes, with the Tonnage and Pondage, for the disputing of which the Howse was resolved into a grand Committee, they might stand without the order; and wee may appoint one day or moore to dispute these particulars.

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[9] *Great Roll of the Pipe, 13 H. II* (Pipe Roll Soc., 1889), 192-195.

[10] *Great Roll of the Pipe, 1 Richard the First* (ed. Joseph Hunter, 1844), 206-210.

[11] *Rot. Parl.* II, 300.

After this ther followed new disputes and one Mr. Cage objected that it would bee a dishonour to this Howse to see the order revoked or defaced. After some others had spooken I stood upp againe; and shewed First that the order was that the saied customers should issue noe recits without order of this Howse; wee did by this as well warrant ther receits to come as those past: for the worde was generall. And as for the objection that was made that it will bee dishonourable for us to revoke or blott it out, I answeared that the like was often found in the Recordes themselves being matters of an higher nature then a Journall booke: wheere sometimes they are inducted by a *vacat* sometimes by transverse lines drawen over them and sometimes by obeliskes or blotts. And the like inductions and blottings out wee may find in all the Journalls of Parliament in the Clarkes custodie; to witt from H. 8 raigne to this time in the Upper Howse, and from E. 6 time to this day of this Howse presidents may bee found of like inductions. Besides this [*blank*]

f. 106a] As manye as are of opinion that the order made touching the receits by the Customers shall bee revoked, let them say I, and soe it was overruled by the I's, being many moore then the Noes.

Then it was long disputed whether wee should putt a second question to give a reason why wee abolished the saied order. And it was overruled upon the question affirmativelie. In both questions I was for the affirmative.

Some desired the Question might bee putt againe. I saied it could not [be] unles the Howse weere willing. And soe to satisfie them that desired it might bee put againe, it was permitted by the Howse.

Then it was debated what the 3d question should bee; and it was the sence of the Howse for the greater parte that wee should expresse ther taking of Tonnage and Poundage was the reason why wee inducted the former order. I desired it might bee putt by the worde subsidie of Tonnage and Poundage, as it was called in about 40 Parliament Rolls. Then after others, Mr. Selden spake[12] that Tonnage and Poundage was not to bee named or soe called till it was granted by Parliament: and therfore wished that the wordes unlawfull impositions weere sufficient to comprehend it. After some other speeches I saied, that they that knew Record did know; that this subsidie was granted neare an 100 yeares by the title of *un antiel* subsidie or *un mesme* subsidie. And soe the wordes unlawfull impositions weere most propper, for indeed till it bee granted by Parliament tis noe Tonnage and Poundage.

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[12] To one familiar with Selden's activity in the sessions of 1628 and 1629, it is somewhat surprising to find him taking so small a part in the Long Parliament. Was it the result of ill health due to his imprisonment after the dissolution of the third Parliament?

But then a middle way was found to put the name of Tonnage and Poundage as the Customers called it.

Soe it was resolved upon the Question, that the reason why the former order was to bee revoked or repealed was because the Howse was enformed from some of the customers confession this morning that they had taken certaine impositions which they called Tonnage and Poundage, and other unlawfull impositions not granted by Parliament, and they did doubt least by that order they should seeme to countenance those illegall takings.

Then Mr. Maynard (it being then past two of the clocke in the afternoone) went out of the clarkes chaire and the clarke went in. And the Speaker came into his chaire and the Serjeant brought upp the mace and laied it on the table.

And soe MR. MAINARD made a shorte reporte of what had been acted at the grand Committee and of the three questions that had been resolved on.

Then Mr. Speaker saied hee would againe putt the questions. Then MR. CAGE desired him to putt but one question. But I stood upp and desired that three questions might bee putt as at the Committee: and the Speaker confessed soe they ought to bee putt. And soe hee did accordinglie putt them severallie, and they weere all ruled in the affirmative as they had been at the Committee.[13] And then the Howse rose.

f. 107a] Post meridiem.

Betweene three and fowre of the clocke in the afternoone the Committee touching Bishop Wrens orders of which I was mett in the Checquer Court wheere the petition of the men of Wolverstone against Mr. Jonathan Skynner a scandalous minister ther who had been a cheife meanes to putt out Mr. Timothie Dalton a godlie minister ther now gone into New-England. It was proved by divers witnesses that the saied Mr. Dalton had been parson ther above 20 yeares that hee was a godlie honest man and preached laboriouslie. That when Bishop Wrenn came to bee Bishop of Norwich hee was questioned as for other innovations hee would not submitt unto soe for not reading the booke for sportes and libertie on the sabboath day. That the saied Mr. Skynner was a principall persecutor of him, bringing downe purseivants out of the high Commission Court against [him]. That the saied Mr. Dalton being suspended by the Chancellour of

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[13] *Cf.* C.J. II, 60. The order was not, however, blotted out, as D'Ewes wished. It is still to be found in the *Journals,* II, 58-59.

Norwich (Dr. Clement Corbet) and in severall dangers was forced with his wife and children to flie into New-England. That the saied Mr. Skynner was a wicked scandalous person was alsoe proved. That hee seldome preached and when hee came into the pulpit and tooke a text once in five weekes hee rather railed then preached, called his parishioners hoggs and used other reviling termes. Hee followed mechanicall workes and almost all sortes of husbandrie. Hee walked ordinarilie with a rapier staff and sometimes with a pistoll charged. Hee used to adore to and towards the Communion table and to and towards the sacrament after consecration, wheerein hee used alsoe to crosse the bread and cupp before consecration and to elevate the bread. That hee had beaten two women, after which one died and the other escaped verie narrowlie. That he had sued molested and vexed divers of his parish to ther utter undoing, by malitious and uniust suites. That hee had caused a poore woman to bee excommunicated that had six small children and was faigne in her husbands absence to stay at home with them; then hee threatned and forbade all the rest of his parish from comming neare her; by which meanes the poore woman died at last for want of foode; and then hee caused her to bee buried in a feild neare a ditch side, with a number of other villanies too long heere to reherse.

The saied Mr. Skynner excused himselfe that hee did not alwaies adore or bow to the table, and never to the bread or wine; but for all other particulars hee did upon the manner confes them.

The Committee adiourned to Tuesday next.

December 31. Thursday. 1640.

Some petitions of noe great moment weere read before I came to the Howse. Just as I came in Mr. Pymme was making report of the Lord Mount-Norris case; that for onlie saiing such a one had a brother that would not have putt upp such an affront from the Lord Deputie, hee was in the time of peace by a Counsell of warre when the Courts of Justice weere open adiudged to bee shott to death. Divers other iniuries had been done him by the saied Deputie but this was of the highest nature, although in other particulars hee tooke alsoe his inheritance from him without law and denied him all remedie in the Courts of Justice.[1] Then the Speaker opened the report 1. that the Lord Mount-Norris desired to the office of Secretarie and the 200£ fee and his other offices: and to his estate wrongfullie taken from him: and the iudgment for him to have been shott to death to have [been] illegall upon the 2d question.

Resolved[2] upon the question that the office of Secretarie and privie Signet and under-Treasurour weere uniustlie and illegallie taken from the Lord Mount-Norris.

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[1] About the Mountnorris case see *The Earl of Strafforde's Letters and Dispatches* (1740), I, 250, 306, 349, 392, 402, 497-498, 519; II, 145.

[2] The *Journals* (II, 60) give this as part of the first resolution and so has six in all, whereas D'Ewes has seven.

Resolved upon a 3 question that the iudgment given against him by the Counsell of warre was uniust.

Resolved upon a 4d question that the commission granted from the Councell of Ireland to examine him in prison was illegall and uniust.

Resolved upon a 5th question that the same Lord Mount-Norris was uniustlie vexed and greived by the information putt in against him in the castle chamber (that is the Starre chamber) in Ireland: and by the proceedings therupon.

Resolved upon a 6 question that the mannour of Bymore was uniustlie taken from him.

f. 108a] A 7th question was Resolved that the severall proceedings by the Lorde Leiftenant against the Lord Mount-Norris upon the petitions of Pegworth and Manwaring weere illegall.

Then Mr. Pymme went on with the report of the iniuries and wrongs offered to the Lord Dillon; and then the Speaker put the Questions upon it.

Resolved upon question that the severall proceedings against the Lorde Dillon touching his severall lands in the counties of Rosse-comin and Meyo are illegall and uniust: for they made a false case and presented it at the Counsell table, and ther tooke the Judges opinion upon it, without anie argument before had before them.

A 2d question was putt that those extra iudiciall opinions given by the Judges at the Counsell table are against law and ought not to bind the Lord Dillon or anie other in anie sorte.

I moved that the wordes against the law might bee putt tend[3] to the subversion of the Lawe which was generallie allowed. But then because it was a particular case it was Resolved in forme differing from both, viz. That the extra iudiciall iudgment given against the Lord Dillon ought not to binde him or anie other.

Resolved upon the 3d question that the saied extraiudiciall iudgment given against the Lord Dillon ought to bee reversed and hee to bee setled in his possession.

Resolved upon question that Sir Richard Bolton the now Lorde Chancellour of Ireland and then the Lord Cheife Baron of the Exchecquer [of] Ireland and the other Judges are fitt to bee questioned as criminous for such extraiudiciall opinions and proceedings.

Then weere the articles of the Commons read by the Clarke against Sir George Ratcliffe by which they charge him with high Treason, being now engrossed in parchment. In the reading over of which twice ther weere divers wordes new inserted and divers particulars amended: to which purpose myselfe and divers other spake.

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[3] D'Ewes first wrote *bee put* and then added above the line *tend*. He surely meant to cross out *bee put*, otherwise the sentence does not make sense.

Soe it was resolved upon the question that the saied articles soe engrost and now read to us should bee the articles by which the Commons should maintaine ther charge of high Treason against Sir George Ratcliffe before the Lordes.

Then it was deliberated that wee might send upp a message to desire a committee of both Howses to preferre the saied articles. And therupon it was resolved upon question that wee should send upp a message foorthwith to desire a conference with ther Lordships by a committee of both Howses concerning articles to bee preferred against Sir George Ratcliffe in maintenance of ther charge of high Treason against him assoon as with conveniencie they might. And Sir John Strangwaies went upp with it.

I accompanied him to the Upper Howse and Sir Edward Littleton knight Lord cheife Justice of the Common pleas who yet supplied the place of the Lord Keeper in the Upper Howse came downe to the raile, and ther Sir John Strangwaies delivered the message: And soe wee withdrew. And after a verie short stay wee weere againe called in; and then the same Sir Edward Littleton sitting in the Lord Keepers usuall place gave us this answeare that ther Lordships would give us a conference instantlie by a Committee of both Howses in the painted chamber.

Soe I returned not backe with Sir John Strangwaies, who went and delivered the answeare of his message in the Commons Howse, but staied to gett a convenient place in the saied painted chamber; whither presentlie after came divers of the Lordes and tooke ther places; and then came Mr. Pymme with divers of the Commons Howse with the saied articles; which having taken his place hee read; and after spake somewhat comparing the greatnes of the saied Sir George Ratcliffs faults and crimes with those of the Earle of Straffords:[4] which being ended wee departed. The Earle Marshall sate at this conference at the Upper end of the table, wheere the Lord Keeper usuallie sate at our former conferences.

f. 109a] After our returne to the Howse upon Mr. Pymms motion it was ordered that the same Committee of this Howse that was appointed to bee present at the examination of the Earle of Strafford should bee present at the examination of Sir George Ratcliffe.

Then Mr. Treasurour stood upp and shewed that the Kings armie in the North was in great distresse, that manye of the souldiers weere readie to disband others would not remove without readie monie, and that much pay was behind. To assert and prove all this hee produced two writings the one was a minute or copie of Sir Jacob Ashley Serjeant maior generall of the saied armie to the Earle of Northumberland: the other was the originall letters of one Mr. Thomas Kerne an under officer in the armie sent to the same Sir Jacob Asheley. Soe the letters weere sent upp from Mr. Treasurour who at this time sate below neare the barre to the Clarke who read them: the substance of them was as followeth.

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[4] For the formal version of this speech see *S. and P.* 202-203.

Dec. 25, 1640, is the date of Sir Jacob Ashleyes letter written to the Earle of Northumberland Lord generall by which hee shewed that the Kings armie in Yorkeshire was farre behind in pay, that the companies that weere to remove would not stirre without monie; that divers persons had trusted the souldiers soe long for lodging and diet as they weere able to furnish them noe longer; and perswaded them to returne home and soe many weere returning.

Dec. 24, 1640, is the date of Mr. Thomas Kerne letter to Sir Jacob Ashley Serjeant Maior Generall of the Kings armie wheere by the want and distress of parte of the Kings armie was sett downe.

Mr. Comptroller moved that in respect of the disorderlie condition of the souldiers ther might bee an order to exercize martiall law.

Divers spake against it, and soe I did my selfe: and wheereas Dr. Eden gave a distinction that *crimina militaria* should bee punished by martiall law but not *crimina communia* within the civill law. I shewed that the civill law was the Imperiall law; and it was against our oath of supremacie to admitt anie foraigne law; but wee must bee governed by our owne lawes: and the rule was generall without exception that wheere the Courts of Justice weere open martiall law ought not to bee exercized; and seeing this great and supreame Court of Justice was open God forbidd wee should have martiall law practiced.

Then it was further debated and the sence of the Howse was that wee should give noe way to martiall law.

Then grew a new question whether wee should sitt too morrow; and divers spake to it. I wished that wee might sitt too morrow; that by speeding the bill of subsidie wee should both have creditt for monie, and it would comfort the armie to heare of it. For the motion that was made that wee should have somewhat for our subsidies I moved that two shorte actes might bee prepared the one to abolish Idolatrie Superstition prophanenes and heresie. And an other to settle the matter of prohibitions.

Then after a little other dispute, it was first resolved upon question that wee should sitt too morrow.

Secondlie it was resolved upon question that the Howse should bee resolved into a grand Committee too morrow morning to debate the bill of subsidies.

It was resolved upon a 3d question, that after the bill of subsidie agitated, wee should consider of some way to raise monie for the speedie releiving of the Kings armie and Northren parts.

It was resolved upon a 4th question that wee should then alsoe advize of a way of regulating the Kings armie and preventing disorders therin according to the lawes of the land.

It was resolved upon the fifth question that some representation might bee made to the King to dismisse the new armie raised last summer in Ireland and to convert the monies provided for the paiment therof to the paiment of the English armie in the North.

f. 110a] Post meridiem.

Some of the Committee in Mr. Prinne and Mr. Burtons busines of which I was mett in the checquer chamber betweene two and three of the clocke in the afternoone. It appeared to us that his answeare had for the most part been expunged upon the meere certificate of Sir John Brampstone Lord Cheife Justice of the Kings Bench, and Sir John Finch then Lord Cheife Justice of the Common pleas, without anie order upon it; which was uniustlie done. Then Mr. Burtons counsell shewed that after they had expunged his answeare as aforesaied the Court of Starre-chamber would have had him to have answeared to Interrogatories which hee refused to doe because it might have drawen him to have accused himselfe falselie, and to have been periured.

Then was read the sentence against him in the Starrechamber 14 June 1637[5] by which hee was first to bee degraded in the universitie and then to bee degraded from his ministerie. The latter was done June 27, 1637 but the former was never executed. Then followed the execution the last day of the same June,[6] which as the Mr. Duns the surgeon witnessed was executed with great crueltie, and that hee bledd long and spent much arteriall bloud before hee could come to him; hee then attending at Mr. Prinns scaffold. The same surgeon witnessed that hee was removed to Lancaster Castle before his wounds weere hole:[7] and Mr. Burton averred that though his wife was directed by the surgeon to dresse him, yet they would scarce let her come at him in his passage thither. And one Mr. Collins that accompanied him witnessed hee had a fever in his passage. And much adoe hee had to gett bedding in the same Castle. After hee had remained ther 12 weekes then hee was transported into the Iland of Gernsey at a dangerous season in the winter November 1, and hee was committed to one Brian Burton a verie leud fellow to convay him over: and this was done by an extraiudiciall order: and his verie wife was debarred from comming within the saied Isle to see him or to enquire for him.

Tuesday next was appointed for the hearing of Nathaniel Wickens petition that was Mr. Prinns man, and Michael Sparkes that printed Mr. Prinns booke. Thursday next was appointed for the hearing of Dr. Bastwicks petition. Soe wee came to the vote: and voted by severall questions this in generall that the proceedings and sentences against Mr. Burton in the high Commission Court and Starrechamber weere against law and ought to bee reversed, and that hee ought to have reparation made: and that the breaking open his howse, taking away his bookes, and his sending to the Isle of Garnsey weere against law and against the libertie of the subject.

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[5] *Cf. Cal. St. P. Dom. 1637*, 214.

[6] For an account see *A brief Relation, Harl. Misc.* IV, 22.

[7] For the expression of popular feeling see *Cal. St. P. Dom. 1637*, 434; *cf.* also *idem*, 287, 332.

Friday January 1 being Newyearesday 1640

After a petition of noe great [moment] read which was referred to the Committee for the Courts of Justice.

An act for the Countie Palatine of Durham to send two knights and the Cittie of Durham two citizens and two other Burrough townes viz., Hartlepoole and Malcastle[1] to send Burgesses. And upon the Question it was committed, and a Committee was appointed,[2] Monday next at two of the clocke in the Checquer Chamber, which was occasioned cheifelie upon SIR WALTER EARLE motion, that hee thought it sufficient if wee allowed them two Knights and two citizens in Durham: and noe Burgesses.

Then it was moved and severallie disputed whether wee should refuse all new busines and perfect the old, of which the Howse was now possessed and many spake for it. I moved that wee might not resolve on that, for I conceived it against the orders usages and Justice of this Howse to refuse f. 111a] anie that came hither for releife, or remedie. For I shewed that ther weere two sortes of petitions preferred by private men; the one wheere in the lawes; and the liberties of the subject weere violated in ther persons: and such wee ought to receive because they further the generall complaints wee are alreadie possessed of: the other are private petitions that meerelie concerne private iniuries and those wee may either refuse or retaine. But I desired this busines might bee laied aside and that wee might goe to the dispute of the Bill of Subsidie; and the Howse bee resolved into a grand Committee; and that these other disputes now raised might bee laied aside till too morrow. And soe after a little dispute it was soe done. Mr. Speaker left his chaire and the Serjeant tooke away the mace and the clarke went out of the chaire and Mr. Whistler was called to come into the chaire. And soe hee came into the clarkes chaire.

Then the clarkes assistant beganne to read the Bill, and it was sett downe in the preamble of it at the beginning as followeth: Most Gratious Soveraigne, wee your Majesties most humble subiects the Commons in this your high Court of Parliament assembled etc.

Then wee fell into a long and great dispute which lasted about three howres, whether wee should leave out the words the Commons or not.[3] Divers spake on both sides. I moved to have the wordes left out, and shewed that I had perused divers presidents for some hundred yeares and found that alwaies the word subjects alone or Lordes and Commons weere put in the subsidie bill in which the guift was passed. But that which is the ancient and acknowledged right of the Commons is that they are [to] dispute settle and prepare the guift of subsidies. Soe it was agreed in Rot. Parl. de a°. 5° R. 2, n°. 16°,[4] That all matter of supplie ought to proceed from the Commons, and in Rot. Parl. de a°. 9 H. 4, n°. 21°[5] it was long disputed and at last agreed to bee the right of the Commons soe as ther Speaker ought to bee the first man that is to enforme the King of the supplie or subsidie that is given. In all Queene Elizabeths raigne the subsidie Bills goe in the word subjects alone and in one ther is neither the wordes subjects nor Commons. And therfore I wished that because the worde Commons in the present bill of subsidie would give distast to the Lordes and was of noe reall use to us, that wee might leave it out for ther was now great necessitie of expediting the Bill and wee should not hazard unnecessarie delayes because the verie safetie of the kingdome it selfe lay at the stake; and therfore I wished the worde Commons might bee putt out. Then followed other disputes that it might bee putt out and it was alledged that ancientlie the two Howses of Parliament sate together and that Sir Edward Coke had delivered this in the Howse of Commons in a former Parliament: and that since that time wee had the right of giving. This called mee upp againe. I saied that the same Sir Edward Coke was a great learned man, especiallie in the written or printed lawes; but I had found by perusing severall passages in his workes that hee often tooke matters of record upon trust and soe erred. In the Parliament held in a° 35° of Queene Elizabeth the same Sir Edward being then her Maiesties Sollicitor was Speaker of this Howse, and ther hee did deliver this tradition in open Parliament that the saied two Howses had ancientlie sate together, till they weere separated.[6] But the truth is from whomesoever hee received this f. 112a] tradition, it is a meere error; and that it was soe I saied I both could and would bee readie to maintaine against all the world, And I could not but wonder that anye man that knew what Recordes meant should averre the same. Notwithstanding what I had saied yet Mr. Pymme and one other member of the Howse did againe alledge the two Howses had ancientlie sitten together; and the saied other member that spake added, that at the parting of the two Howses the Lordes reteined the power of iudicature and gave us the power of giving subsidies. I upon this stood upp againe, and saied that though I knew infalliblie that the two Howses never sate together, yet I would bee gladd to goe an hundred miles on foote to see anie authoritie that weere ancient to warrant this tradition: but whatsoever the tradition was the consequence was dangerous. For it is now

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[1] Undoubtedly meant for Barnard Castle. For the first time this bill has passed a second reading without a debate as to whether both these towns should be represented. See above, p. 76, n. 1.

[2] For names of this committee see C. J. II, 61.

[3] See above, p. 189, and notes 6 and 7.

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[4] *Rot. Parl.* III, 100.

[5] *Rot. Parl.* III, 611.

[6] D'Ewes, *Journals of all the Parliaments during . . . Elizabeth,* 515.

f. 111b] pretended that our right of giving subsidies is noe elder then this pretended division of the two Howses, and that wee enioy this priviledg by the indulgence and permission as it weere of the Lordes. This strikes at the fundamentall and hereditarie rights of Commons; in whose power it hath alwaies been since they sate in Parliament; to give subsidies of all kindes. Then it was afterwards much disputed whether the saied worde Commons should bee left out: or continued in; and then whether wee should putt it, to the Question or not. Myselfe and divers others desired to have it putt to the Question, soe to determine the dispute. But it growing late it was rather desired that wee should forbeare to putt the question; and to deferre the determination of this dispute till too morrow, when it was possible wee might bee moore united in our opinions by conference one with another.

Jan. 1. Friday. 1640. Post meridiem.

I was in the afternoone at the grand Committee for Courts of Justice, but it being New-Yeares day ther was a thinne apparance; and some petitions of noe great moment weere onlie read.

f. 112a] January 2. Saturday. 1640.

A petition from the Burgesses of Cockermouth in the Countie of Cumberland that they might have a new writt to make an election of Burgesses[1] which they had forborne to returne: and it was referred to the Committee of priviledges.

Ther was a dispute about the Election in Carnarvanshire; whether the sheriffe should bee sent for as a delinquent or not: as it had been ordered it was confessed, that the sheriffe had adiourned the poll from about 9 of the clocke in the morning to one of the clocke in the afternoone; and this was conceived to bee sufficient matter of misdemeanour to send for the saied sheriffe. It was alledged in excuse of him that the writt was detained from him till about nine of the clocke the same morning the Election passed. Soe after a motion or two I stood upp and moved that the partie that detained the writt might bee sent for as a delinquent: for else noe sheriffe could make a due election.[2]

A petition of Samuel de la Place[3] of the Isle of Jarsey against Mr. David Mandevile[4] Deane of Jarsey for his adulterie and putting out divers godlie ministers and putting in evill ones and many other misdemeanors: and it was ordered hee should bee sent for as a delinquent.[5]

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[1] See *M. of P.* I, 487, n. 6.

[2] On Jan. 2, the order made Jan. 1, that the Sheriff be sent for, was ordered to stand. C.J. II, 61.

[3] *Cf.* C.J. II, 62.

[4] Bandinell. *Ibid.*

[5] The petition was referred to the Committee for Scandalous Ministers, to which the Comptroller and Mr. Jermyn were added. *Ibid.*

Then a little after the Speaker quitted the chaire, and the Serjeant removed the mace, and the clarke went out of his chaire and the Bill of Subsidie was read after Mr. Whistler was come into the same clarkes chaire. But upon Mr. Pymms motion before the act began to bee read the wordes the Commons weere left in; and hee desired ther might bee noe further dispute about it, for hee did now hope the Lordes would yeild to it. Soe ther was noe further dispute about that. But when it came to the wordes Lords Spirituall and temporall, etc., Sir Henry Anderson stood upp and moved that the worde spirituall might bee left out. Mr. Hollis[6] seconded the motion and wished, that the wordes might bee Lordes and Commons without either spirituall or temporall to bee added. Sir John Strangwaies moved it might goe as it usuallie had done. I stood upp and moved that ther weere two waies to make an end of this difference. First by putting in the words Lords and Commons which would comprehend all without exception: but as for the title of spirituall Lordes, I could not but wonder when it came in. For they weere Bishops long before they weere Barons. And they are now temporall Lordes by ther Baronies and not spirituall. They weere soe made a° 4° of William the first, who rent the estate out of his crowne to make them soe. And that ther Baronies are meere temporall fees it appeareth by the Blacke booke of the Exchecquer,[7] the Redd booke of the Exchecquer[8] and the great Pipe Rolle de a° 12° H. 2,[9] wheere the aid is given for the marriage of Maud his daughter: wheere the severall Knights f. 113a] fees belonging to the saied Baronies are particularlie mentioned. And therfore certainlie they cannot properlie bee called spirituall Lordes; that title certainlie crept in, in the dayes of darknes and ignorance and therfore wee might well lay it aside in these times of light and knowledge.

But upon Mr. Pymms motion that wee might not now loose time in disputing of wordes; for hee hoped that wee should have further time to dispute touching the spirituall Lordes to better purpose. The wordes weere permitted to stand in[10] and the Bill was read on.

Then followed divers other matters of lesse moment which weere spoaken unto in the reading of the Bill and divers matters weere amended in the times limited for the assessing; and for the direction of the Treasurours in ther receits and paiments; and for other such like matters of forme, and it was resolved all particulars might and ought to bee amended at the Committee: and those amendments to bee reported.

Whilest the bill was in reading a message came from the Lordes sent by

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[6] Probably Denzil Holles. See Clarendon's characterization of him. *History of the Rebellion* (Macray ed.), I, 249-250.

[7] *Liber Niger Scaccarii* (ed. Thos. Hearne, Oxford, 1728), 400-401.

[8] *Red Book of the Exchequer* (ed. Hubert Hall, 1896), *passim*.

[9] D'Ewes has an insertion to the effect that it should be a° 14° et a° 15° H. 2. See *Great Roll of the Pipe, 14 Henry II* (Pipe Roll Soc., 1890), 168; *Great Roll of the Pipe, 15 Henry II*, 24.

[10] One of the many instances where Pym quickly prevails.

Baron Hendon and Mr. Justice Foster: and soe Mr. Whistler quitted the clarkes chaire and the Speaker tooke his chaire, and the mace was laied on the table. And then the saied messengers came in and came upp to the table and ther Baron Hendon saied; That the Lords did desire a conference by a Committee of both Howses presentlie in the painted chamber touching the great busines of the treaties of the two kingdomes[11] if [it] might stand with the conveniencie of this Howse. Soe upon the retiring of the messengers, it was resolved in the Howse after a little dispute that wee should goe presentlie soe the messengers being againe called in, The Speaker tolde them sitting with his hatt on, That this Howse had taken ther Lordships message into consideration and would give them a meeting presentlie by a committee of both Howses as was desired. Soe the messengers being gone out and the Mr. Treasurour Mr. Hollis and other reporters[12] named wee hastened thither.

The Lordes weere sett before wee came. The Earle of Arundell Earle Marshall made a shorte introduction that wee weere mett about the treatie of the two kingdomes; and that hee referred the further discussion therof to the Lordes Commissioners. Then the Earle of Bristow[13] stood upp and shewed that himselfe and the other Lords Commissioners weere sorrie that notwithstanding the diligence of himselfe and the other Lordes Commissioners this unhappie busines was not yet brought to an happie and peaceable issue as hee did hope at last it would. Then hee shewed that wheereas the Scotts Commissioners had desired that the Incendiaries[14] of these troubles might bee punished; and that the King promised to permitt them to the censure of the two Parliaments respectivelie of either kingdome and that hee would employ or admitt anie of them after to his service or presence but by advice and consent of Parliament. That the shipps and goods taken on either side should bee restored, and lastlie hee moved a prolongation of the saied treatie yet for a month longer: hee acknowledged the two armies weere not maintained under 60,000£ a month, which was a great charge, but hee hoped they should end the treatie before that time. The Earl Marshall spake shortlie which I heard not.

Soe awhile after our returne to the Howse Mr. Treasurour one of the reporters appointed at the conference desired wee might putt offe the reporting of the saied conference till Monday morning nine of the clocke.[15] Wheereupon Mr. Speaker spake againe and asked if hee should quitt the chaire and soe hee did upon the affirmative answer of the Howse and the

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[11] Of the seven articles presented by the Scots for the ratification of parliament, four heads had been agreed to by the Lords Commissioners and the Scottish Commissioners, and the fifth, which dealt with the restoration of ships and goods, was under consideration on Jan. 2. L.J. IV, 122-123; Baillie, I, 284-285, 289.

[12] C.J. II, 62. Report was made the following Monday. *Ibid.*, L.J. IV, 123.

[13] L.J. IV, 123.

[14] The Archbishop of Canterbury and the Lord Lieutenant of Ireland. L.J. IV, 123.

[15] Which was agreed to. C.J. II, 62.

Serjeant removed the mace and the clarke went out of the chaire and Mr. Whistler came againe into the same chaire: and soe the clarkes assistant proceeded with the reading of the saied subsidie bill.

f. 114a] In the reading of which bill[16] divers things weere againe spoaken unto and some particulars weere spoaken unto and amended being of little moment. At last it came to that place wheere the forraigne honours as Earle Viscounts Barons and Baronets of Scotland and Ireland weere taxed at certaine rates. Mr. Pymme moved, that the saied clause might stand. I moved that for the clause of taxing them I would not much dispute whether it weere expunged or left in. But it is certaine that noblemen of England for want of estate have been putt from ther titles for want of meanes to support them. And for such persons as thought this taxe too great, my motion was that wee might ease them of ther burthens, seeing they had found English monie to buy forraigne honours. And soe the greater sence of the Howse was that the saied certaine taxations should bee putt out. And awhile after the Howse called to rise and soe the Speaker came into his chaire, the mace was laied on the table and Mr. Whistler went out of the clarkes chaire and the clarke of the Howse came into it. And then upon some motions it was ordered that wee should sitt in the afternoone and all committees should bee *sine die*[17] till Monday in the afternoone and then all to meete.

Post Meridiem.

Wee mett in the Howse betweene two and three of the clock in the afternoone and the Speaker being sett in the chaire moved the Howse to know if hee should quitt the chaire and it was soe ordered. Soe hee left the chaire, the mace was taken offe from the table and the clarke going out of his chair Mr. Whistler came into it. Then went the clarkes assistant on with the reading of the subsidie Bill. The first scruple of moment that happened was concerning the allowance of the collectors ordinarie fees as in other subsidies was usuall to which end my selfe and divers others spake; but many opposed it and nothing was resolved on at this present but the saied collectors weere left without reward or fee.

Then after a while further reading ther grew againe a new dispute about the allowing of Collectors and Commissioners clarkes wages: and divers spake for and against it. I moved that the clarkes might have noe allowance for ther Masters did or weere able to allow them meate drinke and wages: But for the high collectors that weere to returne the saied monies they should have allowance. Soe it was at last resolved by severall questions, First that the High Collectors under collectors and Commissioners and ther clarkes should have allowance or some of them. Secondlie it was resolved upon question that wee should allow but three pence in the pound. And thirdlie that this 3^d^ in the pound should bee equallie distributed 1^d^ to the high collectors 1^d^ to the under-collectors and 1^d^ to the Commissioners and ther clarkes.[18] And then the Bill was read on, and that amended; for it was 6^d^ in the pound before in the same bill. And soe the bill was read without anie other great dispute untill the clarkes assistance that read it came to that place wheere the universitie of Cambridge was placed before that of Oxford: and then the Oxford men cried out to have that ranked in the first place; and Cambridge men cried out to[19]

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[16] Rushworth (IV, 1, 133), following *D.O.* (16), errs in putting this reading of the subsidy bill a week earlier, on Dec. 26. Nalson (I, 703) passes over the first two days in January with the comment, "These two dayes were spent in the debate about the business of the Subsidies." About Rushworth's misdating see note 11, p. 190, above.

[17] *I.e.,* the committees that had been appointed to meet that afternoon. C.J. II, 62.

f. 115a] January 4, Monday 1640.

Just as I was comming into the Howse ther was an encrease of the Committee in Sir Lewes Dives busines.

Mr. Hobbies and Mr. Burlaces question touching the Election of Marlow Magna in Buckinghamshire was to bee heard on Thursday next in the checquer chamber. I was of the Committee and some others weere added to it.

Upon Mr. Pymms motion the power of the Committee that was to draw upp the charges against the Earle of Strafford and the Archbishop of Canterburie might have power alsoe to consider what reparation ought to bee made to the parties greived. And it was ordered accordinglie.

The busines touching the post-masters that carried letters was appointed to bee heard on Thursday next according to a former order. SIR WALTER EARLE moved touching the New Irish armie that the kingdome was in great feare of them, being neare 9000 men horse and foote.[1] They have seized on London-Derry and saied masse in the church; and might speedilie draw themselves into a bodie.

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[18] 16 Car. I. cap. 2. *Stat. of the Realm,* V, 75.

[19] From the old *Parl. Hist.* (IX, 222) it is possible to complete this sentence: "Cambridge men cried, that the Bill should stand as it was; and thereupon the Oxford men called to have it put to the question; and divers Cambridge men called upon Sir Symonds Dewes, being then present at the Committee, which drew him to speak as followeth." The sentence in D'Ewes's diary is broken off because D'Ewes rose to speak. Two thirds of a page left blank shows that he hoped afterwards to record this speech but failed to do so, perhaps because the speech appeared so soon after in print (Thomason procured it on the 6th. E. 196 (24)). This pamphlet can be found reprinted in old *Parl. Hist.* (IX, 222-225), Nalson (I, 703-704), and in Somers's *Tracts* (IV, 313-314). But the editor of the *Parl. Hist.* had trouble in placing correctly this undated speech. He finally decided on the middle of February, but tampered with the text in order to make it fit. Such changes are characteristic of this editor and do not add to our confidence in that standard old source. (See Boswell's account of Samuel Johnson's connection with the editing of this work in the eighteenth century.) It is not improbable that D'Ewes turned over to the stationers a manuscript of this speech. In an introductory note to the speech in Somers's *Tracts* it is said, "Sir Simonds D'Ewes spake in effect following, having only a few fragmentary notes by him." That he had notes points to his responsibility for the "separate."

The mention of notes was probably designed to prove D'Ewes's learning; they indicate that he anticipated the discussion and was "primed" for it. It is not at all surprising that he did anticipate it, for such a debate seems to have been a regular part of the passage of a subsidy bill. It was carried on in a spirit of good-natured rivalry and without any real desire to settle the question. For a highly entertaining account of the debate in 1628 see the Borlase news-letter (Stowe 366) for May 31.

f. 116a] Divers spake besides to it. I moved that this danger was not imaginarie but reall. That I had seen a letter sent from thence to a noble personage of this realme that imported the kingdome of Ireland to bee in great feare of them. I further observed that since H. 2 time ther weere never soe many native Irish in armes, and since the reformation of religion not the fifteenth parte soe manye. Besides ther owne turbulent natures they weere whollie guided by ther popish preists and Jesuites; of which they had titularie Bishops, parsons and vicars thorough Ireland. These had correspondencie with the Pope, and all things would bee contrived as might suite with his direction. It was therfore to bee feared that they being fallen from ther late hopes, they would speedily breake into some desperate action and sett all on fire.

Therupon it was agreed that wee should desire a conference with the Lordes too morrow morning by a Committee of both Howses in the painted chamber and that wee should send upp a message to that effect: too morrow morning. The order drawen upp for this purpose did onlie alledge the disorders of that armie. Soe I stood upp and moved that the wordes *and dangers* might bee putt into the saied order after the worde *disorders;* and it was soe allowed by the Howse accordinglie and added to the same order.[2] Sir Walter Earle was nominated the messenger to goe upp with this message.[3]

Then it was moved by SIR ROBERT PIE that ther was great accesse of companie to the Lorde Leiftenant of Ireland in the Tower by which meanes it might at last bee feared that hee might escape: but ther was nothing at this time ordered further in it.

And then it was desired by the Howse that the Speaker might leave the chaire and the Howse might bee resolved into a grand Committee that soe wee might finish the debate touching the Bill of Subsidies. And soe hee did and the Serjeant removed the mace from the Table. And the Clarke went out of his chaire and Mr. Whistler came into it.

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[1] *Cf.* Gardiner, IX, 96, 254; Strafford, *Letters,* II, 399.

[2] D'Ewes was so intent upon his proposal for a change in the wording of the order that he neglected to state the reasons offered for a conference with the Lords, to represent the disorders of the new Irish army: "to desire them to join with this House in a petition to his Majesty, for the disbanding of that army." The committee appointed for the Earl of Strafford's business was to prepare the heads for this conference. It was also ordered that members were to bring in such information as they had in this matter to the committee before the next day. C.J. II, 62.

[3] According to the C.J. (II, 62) Nathaniel Fiennes was appointed messenger and Earle and Clotworthy were to manage the conference.

Then Mr. Whistler moved that Sir John Harrison whoe had lent 50,000£ and was latelie knighted might now bee soe putt into the Bill of subsidie, which was soe done accordinglie, and secondlie it was ordered that William Harrison Esquire his sonne might bee named with him in the Bill to receive the same monie: which was likewise yeilded unto by the Howse without anie dispute.

Then was the Bill read on till wee came to that place in the Bill wheere it was provided that 8£ *per centum* should bee allowed for interest to the saied Sir John Harrison and the cittie of London.

Mr. Cage one of the Burgesses for Ipswich first moved that wee might not by an act of Parliament give an allowance to it as lawfull which wee had condemned in the act de a° 21° Jacobi.[4]

Others spake alsoe to the same purpose. I moved that I had never yet either given or taken use in my particular nor I hoped that I never should. And therfore I would bee loath to give it in generall. For to give use or interest hath been alwaies condemned as unlawfull by the church and law of England. That therfore instead of the wordes lawfull interest without anie proviso adding (as hath been moved) ther might bee added the wordes damages soe as it exceeded not the rate of 8£ *per centum*.[5]

f. 117a] Divers spake to this afterwardes and soe did I againe twice or thrice that seeing the wordes interest and forbearance gave offence and the worde damages might bee added which gave noe offence that wee might not *litigare de verbis:* and some other wordes to the like purpose.[6] And soe at last the wordes interest and forbearance weere expunged and the worde damages added, which gave content to all.

After a little further reading wee came to another place which bredd some dispute; wheere it was provided that the six Treasurours in the saied Act named should dispose of the surplusage of the saied fowre subsidies, according as this Howse should order it. Sir Thomas Barrington one of the Treasurours moved that this might bee sett downe certainelie how it should bee disposed offe by them. Divers spake to that and Mr. Maynard moved that it might bee paied unto the Lordes Commissioners of England till further order of Parliament.

Sir John Strangwaies moved that the saied Treasurours might bee sworne as it was in the case of the subsidie given a° 1°. R. 2.[7] I stood upp and moved that the president cited by that worthie gentleman was of a sadd and fatall time, and not fitt to bee imitated in the time of a great and gracious Prince.[8] Ther was in E. 3 his time as appeareth on the Parliament Rolle certaine orders to which it was desired that the two Howses should bee sworne. But that wise Prince advized the contrarie; and told them they had too many oaths alreadie, and therupon it was forborne. But for the surplusage wee weere in debate offe I heartilie wished ther might bee anie thing remaining but I feared ther woud not. Soe as our dispute now was *de lana caprina*,[9] I therfore seconded Mr. Mainard Motion and wished ther might bee noe further dispute but that if anie surplusage weere remaining, it might bee paied in by the saied Treasurours to the Lords Commissioners. Soe it appearing that it was necessarie for us to heare the reporte of yesterdayes worke before wee could well resolve this difficultie.[10] Soe wee ceased further reading of the Bill of Subsidie and Mr. Speaker went into his chaire againe and the mace was laied on the table and Mr. Whistler went out of the clarkes chaire but hee was not present to come into it.

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[4] *Stat. of the Realm,* IV, Pt. ii, 1223.

[5] See Gardiner's comment on D'Ewes's suggestion (IX, 255). Gardiner seems to emphasize unnecessarily D'Ewes's astuteness at this point. He also seems to me to overestimate D'Ewes's hold on the house. D'Ewes's loquacity had already cost him influence.

[6] "The sense of the house was, nott to admitt any words of Interest or Forbearance; which in the very eye of the Lawes and statutes of the kingdome was unlawfull and nott tolerable, butt from the necessitous depravity of mans nature." Peyton, f. 61.

[7] *Rot. Parl.* III, 7.

Soe the Speaker being sett MR. TREASUROUR made report of what passed yesterday at the conference by a Committee of both Howses in the forenoone as I have ther sett it downe.

Soe then it was upon MR. PYMMS motion ordered after it had been resolved upon the question that the treatie of cessation from armes with the Scotts shall bee prolonged for a month longer from the 16th day of this instant Januarie, that a message should bee presentlie sent upp to the Lordes to desire a conference touching the cessation of armes for a month longer, and a free conference touching the charge of the Scotts against the Leiftenant of Ireland and the Archbishop of Canterburie as incendiaries of the late troubles.

f. 118a] After the matter was resolved upon question and ordered that the saied message should goe upp; Sir Peter Hayman was nominated to goe upp with it who went accordinglie. I was present at his deliverie of the saied message in the Upper Howse. Sir Edward Littleton knight Lord Cheife Justice of the Common pleas supplied the Lord Keepers place and came downe to the raile at the lower end of the Upper Howse and tooke the message and soe after wee had retired awhile wee weere againe called in, and the saied Sir Edward Littleton sitting in the Lordes Keepers seate gave us this answeare in effect, That ther Lordships had considered of the message and would affoord us a conference presentlie by a Committee of both Howses in the painted chamber. It was observabble that Sir Peter Hayman upon the deliverie of his message saied, The Knights Barons[11]

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[8] An amusing instance of D'Ewes's rejection of a precedent where it is against his case.

[9] A thing not existing, literally, goats' wool, adapted from Horace, Epistles, I, xviii. 15.

[10] D'Ewes is making notes rapidly.

[11] Barons of the Cinque Ports, *i.e.*, members from the Cinque Ports.

Citizens and Burgesses of the Howse of Commons have commanded mee to deliver this message to your Lordships etc. wheereas I did not observe in all the former messages the worde Barons to have been used. But it was not well omitted by others. Soe it seemes upon the saied Sir Peter Haymans returne to the Howse of Commons Mr. Treasurour was commanded to deliver the Howses resolution for the cessation of armes for a month longer; and Mr. Pymme[12] to manage the free conference touching the matter of the Lord Leiftenant and the Archbishop of Canterburie to bee incendiaries. But I returned not to the Howse but got a convenient place in the painted chamber.

Soe after the Lordes weere come out and sett out a good while at last Mr. Treasurour and Mr. Pymme took ther places. And soe Mr. Treasurour related that the Howse of Commons had consented to the prolongation of the Treatie for the cessation of armes for a month longer from the 16 day of this instant Januarie, which was well approved by the Lordes.

Then Mr. Pymme beganne to enter upon the matter of the free conference; but it seemes Sir Edward Littleton had mistaken that request in our message for the Earle of Arundel Earle Marshall saied they had noe order from the Howse touching a free conference: and soe the Lordes returned againe (all of them as I remember, I am sure all except a verie few) into the Upper Howse; and soe having new authoritie for a free conference they returned againe. And then Mr. Pymme moved that the Lordes Commissioners of Scotland would bee pleased to make particular proofe of ther charges against the Lorde Leiftenant and the Archbishop of Canterburie of those severall crimes they had laied against them. Soe the Earle of Bristow stood upp and saied they had confered with the Scottish Lords about who had delivered them ther answeere in writing; which hee delivered to my Lorde Paget to read. The summe of it was that if those proofes weere alreadie made or which they could further make heere did not satisfie; then Commissioners might bee sent both into Scotland and Ireland to examine matters moore particularlie and fullie. Then the Earle of Bristow added a shorte speech to the same effect and soe after a little further speech on either side wee departed to our Howse.

f. 119a] After ther returne to the Howse Mr. Treasurour made reporte of what had passed at the conference touching the cessation of armes for a month longer; that the Lordes did well allow it.[13] This was past before I came into the Howse. And then Mr. Pymme made reporte, what had passed at the saied free conference (that is an interlocutorie conference) who was entred upon the relating of it alsoe before I returned into the Howse whoe related the substances of the same conference as it is before sett downe, and the same writing[14] read at the Committee by the Lorde Paget was read in the Howse by the Clarkes assistante.

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[12] And Hampden. C.J. II, 62.

[13] "Sir H. Fane reported the Conference with the Lords; touching the Scotts Treatie; the Earl of Bristowe delivered itt; that touching the Incendiaries, which was the 4 demande that the authors of the combustion in Both nations may be subiect to both Parliaments. The King answeres hee conceives hee hath none about him and as must protect his servants yett iff liable upon iust examination shall bee left to them. 9º Dec. 1640 the Scotts replied to this, that they desired after sentence they might not have access to his Majestie. Answer. The King will not Imploie any

Then it was debated whether wee should goe on with the bill of the subsidie and resolve the Howse into a grand Committee or rise. Most enclined to rise because it was past twelve of the clocke, and that ther weere divers particulars in the Bill of subsidie not onlie yet to bee read, but to bee reported alsoe which would require a long time.

But iust as wee weere rising ther was a writing delivered to the Speaker[15] conteining a testimoniall of one Tobias Colman touching wordes spooken to this effect by one [*blank*] Pert[16] Archdeacon of Bath under Dr. Peirce Bishop of Bath and Wells, heere latelie in London after the dissolution of the last Parliament, viz., That the Parliament weere a companie of factious puritanicall fellows, and sought to wyer-draw[17] the King,[18] and that the Dons would lend the King two millions,[19] and that matters would not bee better till hee had taken offe the heads of some twentie of them. The saied Colman was called in and iustified the saied testimoniall sett downe in the saied writing to bee true.[20] Then it was severallie spoaken unto how great this offence was. I moved that this crime was of an high nature and deserved the severest punishment. For what did these wordes tend unto but to raise dislikes and iealousies in his Majesties [mind] against us; and discouragements amongst our selves. The greatnes of this offence may well appeare by a Recorde still extant. It is Rot. Parliament. de a°. 37° E. 3, n°. 9°, wheere such seditious whisperers as this being then too frequent

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disallo[we]d by sentence of Parliament without consent in parliament nor grant access to his person wherby to Interrupt the firme peace which is desired.

"The Earl of Bristowe. 5 demande touching the restoring off shipps of goods condescended unto and to bee reciprocall, and course to bee taken for itt. Then they had agreed off a cessation of Armes from the 10 of Januarie for a monthe longer iff the Treatie so longe continue. This of the cessation was ordered by the howse." Palmer, f. 126. These are Palmer's last notes.

[14] The paper dated Dec. 14, 1640, containing the Scots' desires. Other papers were also read. L.J. IV, 124.

[15] By Alderman Pennington. Nalson, I, 705. *D.O.* (17) tells of this episode but puts it on Dec. 29 (which is misprinted as Dec. 19).

[16] William Piers. C.J. II, 62.

[17] Wire-draw. Nalson, I, 705.

[18] For money. *Ibid.*

[19] This clause about the Dons and the King, I have inserted at the point where it makes sense, as in *D.O.* 17. It is an interlineation of D'Ewes, and inserted by him after *companie* and before *of factious fellows* just a line above where he apparently intended to put it.

"If the King would have hearkned to a Spanish Don hee might have had 2 millions of money, and it were well hee would take off a score of their heads." Peyton, ff. 61-62.

[20] *Cf.* C.J. II, 62-63.

and both the King and Commons taking notice of them they pray the King to require the Archbishop (ther is now none such to bee moved) and all others of the clergie to pray for his estate, for the peace and good goverment of the lande, and for the continuance of the Kings good will towards the Commons.[21] And this was done. And soe it weere verie needful it weere enioined now. Which motion the Howse approved and many laughed.[22] Soe because the partie who had spoaken those wordes lived under the Bishop of Bath and Wells in his Howse, it was thought fitt that wee should not send for him as a delinquent but leave him to the Lordes.[23] f. 120a] And soe it was resolved to send upp a message instantlie to the Lordes with the saied writing. And Mr. Nathaniel Fines[24] was to goe with it. Soe hee went parte of the way, but the Lordes weere risen. I went out to have gone with him to the Upper Howse; and when I returned awhile after into the Howse of Commons, wheere ther was then agitation how to make the saied Mr. Pert[25] sure who had spoaken the saied wordes till our message should goe upp in the morning. And at last upon Mr. Pymms motion it was ordered that hee should bee committed to the Serjeant instantlie, as a delinquent; and that if wee found in the morning hee had priviledge wee would deliver him upp to the Lords.

Post Meridiem.

In the afternoone divers of the Committee touching shipp-monie of which I was mett in the checquer Court. The cheife busines agitated was touching Sir Edward Bromfeild who had been Lorde Mayor of London a° Dm̄. 1637. A petition was preferred against him by Robert Oake citizen of London. It was prooved that hee appointed and constituted the saied Robert Oake and one William Newett deceased collectors of the same shipp-monie for part of Lordwayner warde. That hee pretended they weere carelesse and negligent in the performance of the same collection and therfore sent them to the common gaole of Newgate wheere they lay in prison six daies. Soe it was long spoaken unto by Mr. Herne of counsell with the saied Sir Edward Bromfeild to extenuate his fault. But the companie being desired by the committee to withdraw, it was voted that the saied Sir Edward had by that act violated the law and libertie of the subject; and that the saied Robert Oake ought to have reparation made him for his losse and damages susteined. Then was a petition read that William Highlond[26] and John Cordall being sheriffes of London in 1635, when Sir William Parkhurst was Lorde Mayor, which Sir William was now deceased, and one Singleton desired remedie against the saied two sheriffs: but upon discussion of the matter it was found that the saied Lorde Mayor committed the saied Singleton by his word onlie and that the saied two sheriffs stood onlie by and did nothing. Soe it was likelie they would bee noe further questioned.

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[21] *Rot. Parl.* II, 276.

[22] The last two words are in cipher.

[23] *Cf.* C.J. II, 63.

[24] Holles, according to C.J. II, 63.

[25] Pierce or Piers.

[26] John Highlord. See *Cal. St. P. Dom. 1625-1649*, 493, 508.

Jan. 5, Tuesday 1640.

William Wright who was to bee naturalized by act of Parliament came in and tooke the oaths at the table of allegiance and supremacie the Serjeant standing all that time on his right hande with his mace on his right shoulder.

Then two other witnesses[1] came in at the barre and prooved that Mr. Pert Archdeacon of Wells had spooken the wordes yesterday witnessed to the Howse by Tobias Colman.

Then after some other shorte motions the charge brought in against Sir John Finch Baron of Fordich was read in the Howse who was late Lord Keeper of the great seale, wheerein his treasons to subvert the lawes of England; and the severall breaches of his oath by iniustice in the places of Lord Cheife Justice of the Common pleas and Lord Keeper of the great seale of England weere sett foorth at large.

f. 121a] The Clarke did first read them all and somethings weere amended in them. And then hee read them over the second time and wee voted each article in particular or severallie upon the question put by the Speaker.[2] But before they weere read the second time or begunn to bee voted, after other motions SIR JOHN STRANGWAIES moved, and I seconded him that wee might send upp the Canons and shippmonie to bee voted by the Lordes before wee sent upp this charge against the saied Sir John Finch. I added that those two particulars being voted by the Lords as well as by us it would much add to the waight of those two charges. Soe the clarke read againe some of the saied articles and wee voted them. But some scruples and disputes rising upon others of them, some gentlemen weere appointed to withdraw into the Committee chamber to consider what alterations or amendments they should thinke necessarie and to present them to the Howse: who went away about it.

Then the Howse desired to have it selfe resolved into a grand Committee Speaker left the chaire and the clarkes assistant laied aside the mace from the table which the Serjeant tooke of him a little after and removed it away. Then the Clarke went out of his chaire and Mr. Whistler came into it. And the Clarkes assistant begann to read the Bill of Subsidies at or neare upon the place wheere wee last left. And after hee had read a little Mr. Caple one of the Treasurours moved to know when they should pay the two 50,000 pounds viz. how long after they had received them. I stood upp and moved that I did not take the intent of the Bill of Subsidie to bee that the Treasurours shall not discharge anie parte of either of the saied two fiftie thousand pounds till the whole somme weere received: but that they might pay it out by lesser sommes assoon as they had received anie considerable sommes viz. by 10,000£ at a time, that soe wee might lessen the damages are to bee paied out of it. Which motion the Howse allowed, and it served to determine that scruple Mr. Caple had made.

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[1] Gerrard Dickens, gentleman, and George Cary, servant to Tobias Coleman. C.J. II, 63. According to Peyton (f. 61) Pierce himself appeared to answer the charges.

[2] C.J. (II, 63) leaves it vaguely, "Some of the particulars voted."

Then wee came to the place wheere the remainder of the 4 subsidies was to bee disposed by the order of the Howse of Commons in Parliament. And Sir Thomas Barrington one of the Treasurours desiring that some certaintie might bee appointed how the saied surplusage should bee disposed and to whome it should bee paied. This spunne out a tedious dispute and raised many questions. One how the surplusage[3] of the monie should bee disposed that remained over and above the saied 100,000£. First wee fell to dispute of the proportions that 3 parts of 5 of the whole weere to bee sent to the Kings armie and two whole partes of the same five to the releife of the Northren Counties. But this was left at large and nothing done in it. Then was a second question stirred, whether wee should make declaration in particular in the act what was to bee paied by the Treasurours and to what uses and this was agreed and soe determined upon the question that all the surplusage should bee paied to the use of the Kings armie and to the releife of the Northren Counties.

f. 122a] I spake to this and moved that wee might certainelie limitt this (as I had spoaken twice or thrice before) whether wee divided it by three parts of five to the paiment of the Kings armie, and the two remaining parts to the releife of the Scottish armie; or whether wee divided it equallie. For that it might bee sett downe in certaine it would bee a meanes of quiett to the Treasurors. The greatest part of the fowre subsidies was now likewise spent, for yesterday the 4th day of this instant Januarie there was 75000£ due over and above the 100,000£ alreadie paied, and now wee had prolonged the treatie for a month longer, and therfore wee might well add a full libertie and disposition of all the surplusage. But then grew a thirde question whether in case wee omitted it wee should order it that the saied surplusage should bee paied out by the order of the Lordes and Commons, or by the order of the Commons with the consent of the Lordes, or by the consent of the Commons alone.[4] These three questions raised us upp a long and tedious dispute what wee should determine. I spake that the mention of the Lords or ther consent might bee omitted in the act. I spake severall times to it. The substance of [what] I saied was: that the fundamentall rights of the Commons weere as well to dispose what wee had given as to proportion what to give. And if wee should now having given admitt anie thing to bee disposed by the order or consent of the Lordes, wee might open a gapp which wee should scarcelie shutt againe. And though divers Lordes in the Act de a° 21 Iacobi weere entrusted to dispose of the monie then given; yet it was in consideration that they weere of the then Counsell of warre[5] and not in relation that they weere peeres in the Upper Howse. At last when it was past twelve and that the Howse grew wearie of these disputes, It was moved by divers that a Committee should bee appointed to consider how this surplusage might bee disposed offe with the honour of this Howse, and for the safetie of the Treasurours wee had appointed: which at last was assented unto by the Howse, and a subcommittee was named from the grand Committee to consider of it this afternoone; and to prepare it for the Howse too morrow morning.

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[3] See *Stat. of the Realm* (V, 78) for the specific provision made for the disposal of the surplus.

[4] *Cf.* debate on Jan. 1, above, pp. 206-208.

Then the Speaker came into the chaire, the mace was laied on the table, and Mr. Whistler went out of the Clarkes chaire. Then MR. CAGE, one of the Burgesses for Ipswich moved that the Grand Committee having not adiourned it selfe, before it ended, the authoritie the saied subcommittee had from it was alsoe determined. Which was agreed unto by the Howse and soe the Speaker left his chaire againe and the mace was removed and the Committee was adiourned by Mr. Whistler sitting in the clarkes chaire unto eight of the clock too morrow morning.

f. 123a] Then the Speaker came againe into the chaire the mace was laied on the table, and Mr. Whistler went out of the Clarkes chaire, and soon after the Howse arose.

Post Meridiem.[6]

In the afternoone divers of the Committee appointed to examine Bishop Wrens misdeameanors of which Committee I was sate in the Tresurie chamber neare the starre chamber. Ther wee had in agitation before us the petition of the inhabitants of the towne and parish of Tiveteshale in the Countie of Norfolke shewing the uniust suspension first of Mr. Jeremias Burrough ther minister, the 6 day May, 1636, and his uniust deprivation Februarie the last day 1637, upon Mr. Bishop Wrens comming to bee Bishop of Norwich[7] in his first visitation. Hee was suspended *ab officio et beneficio* for saying hee did the same reverence at the name of Jesus that hee did at the names of God the Father and God the Holy Ghost, and that hee satisfied the Canon; and that hee had never the booke of libertie delivered him by authoritie and soe had not read it. He was deprived *die ultimo* Febr, 1637 for non residence although himselfe was often ther, and his familie resided ther the greater parte of that time. Mr. Burroughs was present and witnessed most of this, and that hee let the tithes for 90£ per annum besides the Howse and the glebe. Ther weere alsoe divers other particulars prooved that both ministers and tradesmen weere by Bishop Wrenn driven to flie into Holland and New-England; and that upon reformation heere they would bee readie to returne hither againe. And some other busines was entred upon which was not perfected.

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[5] See *Stat. of the Realm*, IV, 1261.

[6] For minutes of the meeting of the Committee of Religion this afternoon, see *Proceedings in Kent, 1640*, 94-95.

[7] Wren served as Bishop of Norwich from Nov., 1635, to April, 1638.

Jan. 6, Wednesday 1640.

A note was delivered in of a testimoniall of certaine persons[1] touching certaine wordes spoaken by one John Smith parson[2] of Hive or Hith[3] in Kent spoaken in St Johns streete in December laste, That if the Parliament went on to taxe such men as they had begunne ther should bee such a blow given before Easter next, as that the rebels of Scotland and the puritanes of England should bee slaves for ever. The same persons being three weere called into the barre and iustified the saied words.

Mr. Mainard moved touching the returne of three for the Burrough of St Germans in Cornewall[4] Mr. Valentine Mr. Moile and Mr. Stowell. And it was resolved that Mr. Valentines election was good, and that Mr. Moile should sitt in the Howse till his election bee avoided. Ther was nothing questioned but the validitie of the returnes.[5] Then Mr. Mainard made a second report touching the election at Northampton. Mr. Knightlie and Mr. Tate weere returned by an Indenture sealed with the common seale of the towne but not by the Mayor; two others weere alsoe returned but not by the Mayor. And it was resolved by the Howse that as the Committee f. 124a] upon the view of the Indentures only had without anie examination of the right of election voted that the saied Mr. Tate and Mr. Knightley might *de bene esse* sitt in the Howse till the election weere avoided.[6]

The third report hee made was touching the Burrough of Peter-Burrough in Northamptonshire and this was alsoe upon the veiw of the Indentures onlie; without anie agitacion yet made touching the right of election. Mr. Fitz-william Mr. Anthonie Fane and Sir Robert Napper weere returned in two Indentures Mr. Fitz Williams in both; and soe as the Committee had voted, it was resolved in the Howse upon Question, that Mr. Fitz-williams should sitt in the Howse and the other two should forbeare to sitt till the election weere determined.

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[1] "John Huckins and Robert Chipperfield of the parish of St Giles, Cripplegate, wire-drawers." Jervase, pewterer from Cripplegate, was summoned to give testimony. C.J. II, 63.

[2] Clerk. C.J. II, 63.

[3] Hive, near Maidstone in Kent. *Ibid.*

[4] See above, p. 107, n.

[5] "Resolved, upon the question, that Mr. Moyle shall not sit here, as a member of this House, till his election be decided." C.J. II, 63. C.J. says nothing about Stowell nor does *M. of P.*

[6] There had been a struggle at Northampton during the elections for the Short Parliament, apparently between the friends and enemies of Strafford (*Cal. St. P. Dom. 1640-1641*, 299), and we may readily imagine that the struggle was renewed in the elections for the Long Parliament, and that we have here some of the after politics.

Hee made a 4th report[7] touching the Burrough of Brecknock in Wales and this alsoe upon the verie Indentures onlie. That towne as the other Burroughs in Wales was to elect and send but one Burgesse. Ther weere two returned by two severall Indentures. Mr. Harbert Price and Mr. Robert Williams weere the men returned, and as the Committee had voted soe it was resolved upon question in the Howse that Mr. Harbert Price should sitt till the election weere determined.

Mr. Kirton made reporte touching the pulling downe of St Gregories church neare Pauls Church: and that the Committee had voted that it was pulled downe against law; that the parishioners had much wrong; that Mr. Inigo Joanes had been a busie instrument in promoting it: and was worthie to bee punished; and that the Church should bee built upp againe in the same place wheere it stood.

Divers spake to this purpose that the Church might bee built upp againe in the same place wheere it stood before and that Mr. Inigo Jones might pay 300£ towards it. Others spake that hee might build upp the church againe, others that the parish might have a church in parte of Pauls. I saied, That I had ever observed that the pulling downe of Churches had been fatall to the instruments and authors. Ther was a great howse in the Strand (I meant Somerset howse) that had been built out of the ruines of two or three churches, which had proved unfortunate almost ever since to all the owners. I agreed that the pulling downe therof had been a verie great iniurie to the parishioners, and that for Mr. Inigo Joanes hee was a man unknown to mee:[8] and I thought him fitt to bee punished for it as a busie instrument. But I conceived those weere moore worthie to bee punished whoe had sett him on worke and had indeed made an Idoll of the Church of Pauls, soe as they would permitt that neither church nor howse might stand neare it. It is an old tradition that the same cathedrall church was an idolatrous Temple of Diana under the heathen Saxons. But I finde this as other traditions to bee but a meere tale. For it appeares in the *Antiquae Chartae* in the Tower that King Ethelbert the first Christian Saxon King of Kent did build that Church from the ground. I advized therfore that till the saied Church were new built that the parishioners might have some place assigned in Pauls Church for divine use, which would better become the church, then the images that weere sett upp in it. f. 125a] And for the rebuilding of the saied Church I was of opinion that wee should transmitt our desires in that particular, with the uniust proceedings used in the pulling it downe to the Lordes.

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[7] There was at this point a report on the election for Midhurst in Sussex (C.J. II, 63). Midhurst was not a corporate town but had a bailiff and was an "ancient Burrough." Peyton, 62.

[8] An evidence of the limitation of D'Ewes's interests. See the incident in *D.N.B.*, *sub* Jones, Inigo.

Soe upon divers other motions it was at last appointed that the saied matters should all bee recommitted againe to the former committee,[9] to prepare them to bee voted heere and to bee transmitted upp to the Lordes.

Then MR. GRIMSTON stood upp and shewed that hee had matter of great moment to acquaint the Howse withall concerning the priviledge therof broaken in the person of a member therof, which was that on Monday last in the Court of wardes at the Committee [*blank*] ther passed some difference betweene Sir Henrie Harbert and Mr. Serieant Wilde two members of this Howse; and that the saied Sir Henrie Harbert did not onlie give the saied Mr. Serjeant Wilde opprobrious speeches, but strucke him; the Committee then sitting. Divers spake to it, some would have had it referred to a Committee, but others moved that both the saied members might bee enioined to bee heere in the Howse too morrow morning at nine of the clocke, and that then the busines might have a full hearing and determination: which was soe allowed by the Howse.[10]

Then MR. SAINT JOHN moved that hee had a petition of great moment to preferre which concerned the good and welfare of all the plantations in America. Soe the petition was delivered to the clarke who reade it: and therin was sett foorth what cruell exactions the customers demanded and tooke of such as went into anye of those plantations or came from thence. Sir John Jacob[11] and others monopolizing all ther tabaccoe at his owne price, and compelling them to bring upp ther goods to London, and Sir John Worsename[12] compelling such as went, to enter into great bonds soe to bring ther goods; with divers other great extortions and oppressions.[13] Then MR. SAINT JOHN after the petition was read, did further explaine those exactions and oppressions at large; and MR. MAINARD and others seconded his motion. I stood upp and moved that not onlie the strength but riches of all Ilands consisted in matter of traffique, and soe did the riches of this kingdome. That if such as hazarded ther lives estates and fortunes by the sea weere thus spoiled and depilated; wee should finde a decay of all trade and traffique. This evill began to grow in elder time, and remedie was then provided, which might bee a rule and direction to us what course to take being on Record, in Rot. Parl. in 1° Parl. (for ther weere in that yeare two Parliaments) de a° 13°. E. 3. n°. 13°.[14] The Commons petitioned that the inhaunced customes of certaine commodities might bee abolished and that if such customes weere required resistance might bee made. A little after the evill grew to a higher pitch for then had John Peachie gott an imposition upon wines: and therfore the same yeare In Rot. Parl. de a° 50° E. 3. no. 191°,[15] The Parliament thought it iust that such as laied new impositions of ther owne authoritie without assent of Parliament might loose life and member. Soe I wished the petition might bee referred to a former committee according as it had been moved. And soe it was ordered, and some others of which I was named by divers for one, weere added to that Committee, and a time and place appointed for them to meete.[16]

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[9] Whistler and Marten were added to the committee. C.J. II, 63-64.

[10] *Cf.* C.J. II, 64.

[11] Collector of the Pretermitted Customs at the Port of London and Commissioner for Tobacco. *Cal. St. P. Dom. 1640*, 149; *1641-1643*, 227; *Cal. St. P. Colonial, 1574-1660*, 274; Grant and Munro, *Acts of the Privy Council, Colonial Series, 1613-1680* (1908), 123-124, 186-187.

[12] Sir John Wolstenholme, a well-known merchant, adventurer, and farmer of the customs, who figured largely in the parliament debates of 1629. See N. and R., *sub* Wolstenholme in index.

[13] *Cf.* C.J. II, 64.

f. 126a] MR. PYMME made report touching the sufferings and iniueries of Adam Lorde Loftys Viscount Ely late Lord Chancellour of Ireland: that a decree had past at the Councell table in Ireland. That hee was committed till hee had made certaine assurances of lande to the issue female of Sir Robert Loftys his yongest sonne it being formerlie entailed upon Sir Edward Loftis yonger brother to Sir Robert aforesaied, with other greivances mentioned in the questions following.

Soe it was resolved upon question that the Decree with all the proceedings therupon made against the saied Lorde Viscount Ely by the Lorde Leiftenant are void and ought to bee vacated.

Secondlie it was resolved upon question that the severall assurances[17] entred into by the saied Lorde Viscount Ely weere undulie procured and ought to bee cancelled; and that the lands by them conveied ought to bee reconveied and reassured to the saied Lord Loftis, free from all incumbrances since incurred.

Thirdlie resolved upon question that the sequestration of the Lord Viscount Elyes estate ought to bee avoided, and that hee ought to bee restored to the mesne profits, and to have satisfaction therof from the sequestrators of the saied estate, or such as did receive the rents by couler of the saied sequestration.

Fourthlie resolved upon question that the statute of 4000£ entred into by the saied Viscount Ely ought to bee vacated.

Fifthly resolved upon question that the Lord Viscount Ely ought to have reparation for his damages susteined from the Earle of Straford. (Lorde Leiftenant of Ireland.)[18]

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[14] *Rot. Parl.* II, 105.

[15] *Ibid.*, II, 356.

[16] The committee had been appointed on Dec. 18. The names added show the importance of the committee. See C.J. II, 64. The petition of the traders of the Summer Islands was referred to the same committee. *Ibid.*

[17] "Made in pursuit of that decree." C.J. II, 64.

[18] See Clarendon's comment on Strafford's treatment of the Lord Chancellor, I, 292. See also I, 196, 290, 295. See Bagwell, I, and especially 264-268.

Then MR. PYMME proceeded to make report touching the Earle of Kildares oppressions and iniuries susteined from the Earle of Strafford Lord Leiftenant of Ireland: who threatened him to question him both for his honour and the landes belonging to it; which had been all setled in Kinge James his time upon mature agitation: unles hee would give him 6000£ which hee refusing the saied Earle of Strafford imprisoned him and seized almost 3000£ per annum of his estate for that pretended somme which hee keepes to this day. Soe it was ordered that a Committee should draw upp this and other charges against the Lord Leiftenant, and that the saied Earle of Kildare should have a commission to examine witnesses in Ireland to perfect the testimonies touching his saied charge or accusation against the saied Lorde Leiftenant the Earle of Strafforde.

And the Committee was named,[19] and power alsoe given them to draw upp the charge against the Earle of Strafford out of the charges of three other Lordes alsoe viz. the Lord Mount-Norris the Lord Dillon and the Viscount Ely.

Assoon as this busines was setled the Speaker went out of his chaire, the Serjeant removed the mace, and the Clarke went out of his chaire and Mr. Whistler came into it, that soe the Howse having resolved it selfe into a grand Committee, which grand Committee had been adiourned yesterday to this morning nine of this clocke: having then made a subcommittee, which subcommittee had order to amend something in the subsidie bill; and ther paines would have been lost, if the Howse had not now againe been f. 127a] resolved into a grand Committee. Mr. Whistler being sett although it weere now neare twelve of the clocke, yet Sir Thomas Withrington preferred in writing what the subcommittee had done for the amendment of the subsidie bill in that particular which had been yesterday committed to them. And soe they neither drew it that the surplusage of the fowre subsidies over and above the 100,000£ alreadie issued out should bee disposed of by the sixteene Lords Commissioners named at Rippon and 32 to bee named of this Howse or anye twelve of them; soe as ther bee alwaies double the number of this Howse to the number of the Lordes Commissioners.

A little after they weere named I went out of the Howse. But the 16 Lords Commissioners weere alsoe named. And then the Speaker went into the chaire againe, after Mr. Whistler had adiourned the saied grand Committee to eight of the clocke too morrow morning and soe the Howse rose.

Post Meridiem.

Divers of the Committee touching the Court of Honour and Heralds of which I was mett in the starrechamber neare upon three of the clocke; in the afternoone. And wee had in agitation before us the complaint of Mr.

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[19] *Cf.* C.J. II, 64.

George Serle of Tanton in the Countie of Somerset now a member of the Howse of Commons, that for wordes spoaken to one Mr. Robert Browne a yonger sonne of Sir John Browne knight and of his wife the daughter of Sir Henrie Portman viz. that his ancestors had been sheapheards or sheepe masters, hee was adiudged to pay in the Marshals Court or militarie Court an 100£ damages and 40£ costs, and to make an unworthie submission at Taunton before divers persons: and it cost him besides an 100£ moore in the defence of himselfe during the saied suite. It was expected that Dr. Ducke[20] or some other would have been present to have defended the iurisdiction of the saied Court: some alledged after some six weekes given ther to search, they could not yet finde such recordes as might prove the saied iurisdiction.[21] I saied I durst confidentlie averre that they might search long enough ere they found anye such, and that ther was no record in England, which did warrant the proceedings of that court as they weere now practiced. Soe it was at last agreed to supersede all further proceedings till Mr. Browne might have notice to make his defence. And soe the Committee adiourned itselfe.

January 7, Thursday 1640.

The Act for the naturalizing of William Fisher[1] and Peter Herne[2] was in reading as I came into the Howse, the second reading, and then it was committed to a former Committee; and others weere added to it,[3] upon the Question.

The Act for the naturalizing of Peter Murresle[4] and Peter Hewen[5] was read the second time; and resolved upon the question that it should bee committed: and it was committed to the same committee and some others weere added to it.

Then Mr. Selden moved that Doctor Potter Vice-Chancellour at Oxford who had been sent for as a delinquent for suspending Mr. Henrie Wilkenson for a good sermon preached in Oxford, from a divinite lecture hee had in Magdalen colledge in Oxford; did now attend at the doore; and was readie to revoke that suspension, and therfore hee further moved that hee might bee called in and dismissed.

Divers spake to this matter[6] and most enclined that hee should bee called in to the barre as a delinquent. I moved that I had heard this busines reported to the grand committee of Religion; and from thence to the f. 128a] Howse. For Dr. Potter I knew him not but in respect of his person and function and that hee was vice-chancellor of Oxford; I wished wee might shew him all the favour wee might. But withall wee ought to regard the honour of this Howse: For ther are two offences the saied Doctor was guiltie of. The first in his publike suspending the saied Mr. Wilkenson and 2dly, his sending certaine excerptions out of the saied sermon to the Committee, by which Mr. Wilkenson stood charged with heavie crimes, such as if they had proved true they would have deserved an high censure and punishment. Soe I conceived that wee having upon these two voted him a delinquent and sent for him as a delinquent, it would now argue much inconstancie in us not to call him in as a delinquent. And therfore I wished wee might proceed as wee had begunn, and that hee might bee called into the Howse and answeare his saied offences. Soe after a little further dispute hee was accordinglie called in, and kneeling at the barre was bidden to stand upp. And then the Speaker told him what hee was charged with; and as hee begann to have answeared the Speaker badd him withdraw. And then it was yeilded unto by the Howse that the saied Dr. Potter might bee called in againe and permitted to speake. And soe hee was: but as hee beganne to speak it was conceived that hee meant [to] iustifie what hee had done, in some particulars although the sence of the Howse had past against it.[7] Soe hee was bidden by the Speaker to withdraw the second time. Then wee fell to a new dispute whether hee should bee permitted to come in againe and to speake.

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[20] Dr. Arthur Duck, Chancellor of London diocese.

[21] About the jurisdiction of this court see below, pp. 377-378.

[1] John Devischer. C.J. II, 64.

[2] Heren. *Idem.*

[3] *Cf.* C.J. II, 64.

[4] Marolois. *Ibid.*

[5] Hoet. D'Ewes is writing from memory.

[6] It was probably at about this point that Sir John Hotham declared: "In any thing that doth offend any particular member, Jurisdiction or priviledge of the house, the house hath sole power of Judicature and punishment: Butt what concernes the house *ad Extra* is of publique Interest and concernment is used to bee referd to the Lords for Judgment by Petition." Peyton, 62.

Mr. Hollis moved hee might not bee suffered to speake anie moore.[8] Others thought it fitt hee should speake againe. I stood upp and moved that I conceived the difference that was now in the Howse was not whether Doctor Potter should speake againe but what hee should speake. I conceived it verie great reason that seeing the Howse had once given him leave to speake wee ought to heare him speake. But this I advized that hee might speake nothing against the vote of the Howse: but as it had been signified to us that the saied Dr. had declared himselfe that hee did well approve the saied Mr. Wilkensons sermon, and that hee would take offe his suspension: that hee might declare himselfe in those two particulars. Awhile after Dr. Potter was againe called in and did submitt to the censure of the Howse and promised to revoke the saied Mr. Wilkensons suspension openlie in Oxford. Soe the Speaker badd him againe withdraw. And then it was disputed whether the saied Dr. should upon the submission bee dismissed or give baile for his further appearance. And at last it was onlie wished that the Serjeant should dismisse him paiing his fees, and give him notice that hee must bee readie to appeare before this Howse at all times when hee should bee called.[9]

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[7] "He informed them that Mr. Wilkinson's Suspension was according to the Statutes of the University, but that notwithstanding he did submit himself to the Judgment of the House, and professed himself willing in any way to take it off." Nalson, I, 705. Nalson dates this wrongly as Jan. 6.

[8] "Mr. Hollis would nott have Dr. Potter heard, because hee had received his charge; and noe man was heard to plead after hee was judged." Peyton, f. 62.

Then the Speaker went out of his chaire the mace was removed from the table, and the clarke left his chaire and Mr. Whistler came into it. And then was the new clause read touching the issuing of the monie remaining of the 4 subsidies over and above the 100,000£ alreadie sent away by the sixteene Lordes Commissioners now in treatie with the Scottish Commissioners and the 32 named of this Howse,[10] or by anie 12 of them of which alwaies the number of those of this Howse to bee double the number of the Lordes, which clause was allowed to stand in place of the former clause, that this Howse should issue the saied remaining summe by order therof: f. 129a] being so resolved upon the question. As the subsidie bill was in reading Sir Walter Earle moved that hee had great busines of waight to move the Howse in and therfore desired the Speaker might againe resume the chaire, which hee did and the Serjeant laied the mace on the table and Mr. Whistler went out of the clarkes chaire.

Then Sir Walter Earle moved that the matter touching the new irish army which was referred to himselfe and other Committees appeared to him to bee full of danger. First the number was great neare upon tenn thousand, all or most of them papists. That they weere of all the strong forts and port-townes in Northren parts of Ireland. That it was in ther power to seize upon 3 Magazins: and within three or fowre dayes at anye time to assemble together. That they had celebrated masse publikelie. That the Earle of Strafford was still the generall, to whome divers of the commanders of the saide Irish armie had dailie accesse, and received commands from him. That this armie did not onlie fill the kingdome of Ireland with feare; but burthened it also with charge. Hee therfore desired that there might bee a speedie free conference desired with the Lordes for the disbanding of this armie.

Mr. Treasurour Sir Henrie Fane spake to the contrarie and wished that till the Scottish armie weere dissolved and gone home that the saied new Irish armie might still bee held together under pay.

After other motions, I saied, That the matter now in question was whether it weere not necessarie the saied Irish armie should bee disbanded. I conceived and feared that question might bee moore easilie resolved then a second question: and that was how and by what meanes they might bee dissolved. Some called Ireland a backe doore to open a conquest to England: sure enough it lies opportune for the partes of Spaine and Africa.

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[9] He was ordered to repair to the University until he should again be summoned by the House. *Cf.* C.J. II, 64.

[10] For these names see *Stat. of the Realm,* V, 78.

The Spaniards alsoe boast that the Irish are descended from them: and the Irish allow that tradition to maintaine a mutuall correspondence with Spaine and a dependance upon them. Ther is onlie one objection of waight why wee should hold them together, and that is the probable dangers to bee feared from the armie in the North. But for that I moved, that I hoped what the Emperour Constantine saied of his commanders would bee found in them, That those who weere true to God would bee true to ther Soveraigne. The Earle of Tyron did in Queene Elizabeths time desire that hee might in respect of his honour and dignitie cover his howse with lead: but at last hee turned that lead into bullets; and by that meanes and other assistances and dependances maintained a long and chargeable warre against this kingdome. I wished wee might not in the issue have moore reason now to repent of the putting of armes into these mens hands: who had alreadie begunn to sett upp the masse and to bring in Idolatrie. The dangers then wee saw to bee great: and therfore it concerned us in dutie
f. 130a] who did heere represent the whole kingdome, to regard the safetie thereof. I advized lastlie that I conceived it expedient for us to discharge our duties, for the safetie of Church and Commonwealth that wee should speedilie desire a free conference with the Lordes for the dissolving of the saied armie.

Some others spake to that effect; and Mr. Comptroller moved that this army might not be dissolved till the Scottish armie in the North weere returned home, nor that wee should desire anye conference with the Lordes concerning it. Others spake to the contrarie: and whilest wee continued in this dispute ther came a message from the Lordes sent by Sir Ralf Whitfeild one of the Kings Serjeants and Sir John Bankes the Kings attorney. They being brought into the Howse by the Serjeant, and comming upp to the table Sr Ralfe Whitfeild delivered the message to the Speaker which was that the Lordes did desire a conference speedilie by a Committee of both Howses in the painted chamber, concerning the safetie of this Howse[11] if it stande with the conveniencie of this Howse. Soe the messengers being withdrawen it was resolved by the Howse to give them a meeting instantlie, which the Speaker did accordinglie relate to the saied messengers being againe called in. Soe reporters being named,[12] who weere to take this conference and report it to the Howse: wee hasted away to the painted chamber. Some of the Lordes weere sett before wee came, divers others came after and with them the yong Prince Charles. First the Earle of Arundel Earle Marshal saied that the end of the conference was to let us know the state of the Kings armie in the North. Then the Earle of Northumberland Lorde Admirall and Lord Generall of the saied Northren armie shewed, that the saied armie was in great want and much discontented.

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[11] *Kingdom* is meant.

[12] See C.J. II, 65.

That 25000£ had been received by them. That 25000£ moore was sent, but that those sums came farre shorte of what was due and necessarie as a letter ther sent to him did shew. Then was the Letter delivered to the Lord Paget, which had been sent to the saied Lorde Generall his excellencie by some officers of the armie. It was dated at Rippon Jan. 3, (viz. this instant Januarie) and it was brought by Leiftenant Colonel Ballard.[13] It shewed that Sir Jacob Ashley was verie sicke that they durst aske him noe questions, that the cuntrie denied to give any further trust to the armie, soe as it was in great danger of disbanding. Then the Lorde Generall shewed further that the saied Leiftenant Colonell Ballard could enforme us of moore particulars.

Then the Earle Marshall shewed that the Lords Commissioners for the treatie of cessation of armes with the Scottish Commissioners had somewhat to relate to us. Then the Earle of Bristow shewed that since the relation hee last made and the further prolongation of the treatie for a month longer, they had agreed upon an additionall article which was that if the treatie should breake offe on either side, ther should bee twentie dayes of cessation from all acts of hostilitie: and those 20 dayes should bee accounted from the day of the certificate given from either Commissioners to others. And the Lordes being asked privatelie by some of the Howse of Commons whether anie thing should bee allowed the Scottish armie for those 20 dayes: they answeared noe.

f. 130b] This additionall clause the Earle of Bristow tolde us was first desired by our Commissioners to avoid surprize on all partes; but hee well hoped ther would bee noe use of it. For they had alsoe agreed before that ther should bee noe hostilitie by sea for 3 months from and after such breach of the saied treatie. Soe wee returned to the Howse; and after the shorte agitation of one or two particulars of little moment MR. HAMDEN one of the Reporters before named for this conference made reporte of it in the Howse in such manner and forme almost as I have sett it: and the Clarke read the saied letter which the Lorde Paget had read at the Committee and then Mr. Hamden tolde the Clarke hee might take a copie of that letter and then deliver it him to restore againe to the saied Lord Generall.

Then the Speaker putt the question whether this Howse did approve the saied additionall article touching the cessation of all hostilitie for twentie dayes after the breach or ending of the saied treatie. And it was allowed by this Howse.[14] Then it was moved by MR. COMPTROLLER that Leiftenant Colonel Ballard might come into this Howse too-morrow morning, and make a moore particular relation of the state of the armie, which motion was well allowed.

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[13] Printed in full in L.J. IV, 126.

[14] *Cf.* C.J. II, 65, where the additional clause is given in full.

Post Meridiem.

Divers of the Committee in Dr. Bastwicks petition which was read of which I was mett in the Dutchie chamber and ther it was prooved that first in the yeare 1633, one Tomlins a pursuivant came to Colchester and first searched in his howse ther and tooke papers and then searched in the howse of one Thomas Facon an Apothecarie ther wheere Dr. Bastwicks bookes and papers yet remained in a studie hee had ther, and tooke away divers bookes written and printed besides divers papers from thence. Then the saied Dr. having other bookes at the hith in Colchester the saied Tomlins searched ther alsoe: and all this passed before hee was at all questioned in the high Commission Court. After being questioned in the high Commission Court ther weere administred articles to him, and after that twice moore ther weere new articles administred and witnesses examined against him on them viz., Mr. Newcomin of Colchester and others who had combined and complotted together to accuse him. And after all this they made a thirde addition of new articles and examined him upon them: The saied witnesses alsoe that had combined together had saied before ther accusing Dr. Bastwick that they would undoe him his wife and children. And a little after the committee adiourned it selfe.

f. 131a] January 8, Friday 1640.

When I came in a petition was iust begunne to bee read against one Immanuel Uty[1] vicar of Chigwell in the Countie of Essex that hee used to say praiers at the altar with his backe to the people and kissed the altar that hee had saied that the King was not head of the church under Christ but the Bishopps: that the Pope was not Antichrist and hee loved him. That the Parliament had noe power to treate of matters of religion, and other particulars. William Jenkins and Thomas Browne being called in twice did iustifie divers particulars of the petition, and Thomas Browne at his second comming in did averre hee had preached in the pulpit, that wee ought to respect the commands of the Archbishop of Canterburie equallie with Gods worde. Then two things weere proposed first to referre this petition to a select committee. Secondlie to send for him instantlie as a delinquent: to which particulars divers spake. I saied, That time indeed at last would corrupt as well as other things. But till then that the times weere good of themselves, and that evill men made evill times and not evill times evill men. I conceived this man fitt to bee sent for as a delinquent; for hee had practiced a new parte of Idolatrie in kissing the altar which was an olde practice of the heathen. For ther weere three parts of the heathens Idolatries first ther adorations, secondlie ther praiers and sacrifices, and thirdlie ther kissing ther Idols. This was expressed in Scripture, of the seven thousand that had not bowed ther knees to Baal nor had kissed him. I wished therfore that as hee had kissed the altar soe hee might come and kisse the barre heere.[2]

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[1] Samuell Utie, according to C.J. II, 65, and Nalson, I, 719. Peyton (f. 63) declares that Dr. Utie was "sent for as a Delinquent, for saying, His fathers soule was in heaven interceding for his; that the Archibishops commands were equally of the authority with the word of God: That if it were possible for the Divell to take on him holy Orders, hee should speake by divine inspiration."

For more details about Utie see John White, *First Century of Scandalous Malignant Priests* (1643), 2-3.

Then ther was a petition preferred by many of the parishioners of St. Leonards Foster lane London against one William Warde clarke rector ther; for setting upp an altar, adoring to it, calling the parliament in a°. 3°. Caroli *Insanum Parliamentum:* a madd Parliament in the verie pulpitt with divers other particulars.[3] Then it was ordered that both the saied Immanuell Uty and William Warde might bee sent for as delinquents; and that the two petitions preferred against them, might bee referred to the committee for scandalous ministers, and some others weere added to it.[4]

Then it was moved that because matters proceeded slowlie a committee might bee appointed to consider what matters it weere best for the Howse to conclude and treate upon in the next place soe a few weere named and desired to withdraw presentlie into the committee chamber; and soe they did.[5]

Then the Speaker left the chaire and the Serjeant removed the mace and the Clarke went out of his chaire and Mr. Whistler came into it; and then wee went to read the bill of subsidie, and when wee came to the names of the Commissioners for the towne of Cambridge ther weere divers Doctors of divinitie putt in, and it was moved by Mr. Reinolds that they might bee putt out and none of them imploied. Others spake to the same purpose. I moved that this dispute deserved not anie longer debate. For it had been the olde greivance of England that clergie men did intermeddle with secular affaires. It was a great greivance now to bee remedied; and therfore wee should much preiudice ourselves now to admitt it. Soe after one or two moore had spoaken to it, all the clergie mens weere strucke out.[6]

f. 132a] And divers other amendments weere made: and then the Speaker againe resumed his chaire. And Mr. Whistler that sate in the clarkes chaire standing neare the Speaker on his right hande, made report in breife of all that had been done on severall daies for the amendment of the Bill of Subsidie upon the commitment of it. After which the reading of all these new additions was deferred till too morrow morning.

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[2] At about this point "Mr. Maynard desired . . . That those 2 that had presented it [the petition] might iustifie some parts of it; That the house might have ground to send for him as a Delinquent, which was done effectually." Peyton, f. 63.

[3] "And the last Parliament were a company of Factious Puritans ect.; And the king should doe well to bring an Army into the Citty to eate up ther meate before ther faces and to lye in bed with their wives.

"Mr. Bagshawe. Wonders why Ministers should speake against Parliament, for had it nott beene for Parliaments they had nott enjoyd wives; for by the Canon Lawe they are not permitted to have any." Peyton, f. 63.

[4] See C.J. II, 65.

[5] See *idem*.

[6] "Resolved by Question, That noe Cleargie shall bee Commissioners in the subsidy in any County or place whatsoever." Peyton, f. 63.

Then the Speaker shewed an impression of an order with the names of the Committees verie falselie printed that weere appointed for the busines of scandalous ministers, and to see how a learned ministerie might bee planted in the realme. Ther weere alsoo new additions printed, all which the Speaker conceived to bee an iniurie to the Howse. Soe it was thought fitt by the Howse that the Speaker should send for Henry Overtone that sould the saied new printed pamphlets, to know by what authoritie hee had solde them.

Post Meridiem.

In the afternoone divers of the Committee touching the dioces of Norwich and the innovations ther sett upp by Bishop Matthew Wrenn of which I was, in the Treasurie chamber neare the starre-chamber. The first thing wee entred upon was the Ipswich petition. Ther it was prooved that in Bishop Wrens visitation in a°. Dm̄ 1636, the communion tables in all or most churches of Ipswich weere commanded to bee sett upp altarwise: the ground was raised and railes sett along before tables. And in St. Maries Church the seates which had been placed decentlie in the Chancell on the South and North sides, and in the East ende. That these and other innovations weere enforced by Bishop Wrenne;[7] his owne iniunctions under his Episcopall seale brought before us did shew sufficientlie; which was proved alsoe by a warrant under Dr. Edens hand dated in Aprill 1636, to which alsoe one John Novel subscribed his hande who was then Bishop Wrens chaplaine and one of his Commissioners. It was prooved that in some Churches the people could not heare; in others they could neither see nor heare. The articles printed and used in Bishop Wrens first visitacion weere 139 in number in a° Dm̄ 1636. Robert Duncon one of the Church wardeens in Ipswich was excommunicated for but removing the Communion table out of the raile at one sacrament; and was at last forced to pay 5£ to Dr. Peice the Commissarie for commuting of his penance enioined for the same. That divers weere denied the sacrament who came upp into the chancels because they would not come upp to the raile. And that Bishop Wren enioined the ministers not to come out of the raile, or to administer it to anie that did not come upp and kneele at the raile. It was further proved that Bishop Wrenn in 1636, at the ordination of certaine Ministers of which Mr. Baldro was one, in the Tower Church in Ipswich, did stande with his face to the East and his backe to the West and did consecrate the bread first elevating it with his right hand above his shoulder, and then setting it downe on the table did bow verie low to or towards it; and soe hee elevated the cupp alsoe in the act of consecration, and then alsoe having sett it downe he bowed to or towards it alsoe.

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[7] "The removing the Communion table out of the body of the church, where it had used to stand and used to be applied to all uses, and fixing it to one place in the upper end of the chancel, which frequently made the buying a new table to be necessary; and enclosing it with a rail of joiner's work, and thereby fencing it from the approach of dogs, and all servile uses; the obliging all persons to come up to those rails to receive the Sacrament; how acceptable soever to grave and intelligent persons who loved order and decency, (for acceptable it was to such,) yet introduced, first, murmurings amongst the people, upon the very charge and expense of it, and, if the minister were not a man of discretion and reputation to compose and reconcile those indispositions, . . . it begat suits and appeals at law." Clarendon, I, 127.

f. 133a] And that the ministers that then offered the oblation did it upon ther knees: and Mr. Novel reading that praier wheere the wordes *accept of our almes* are hee read *accept of our oblations*. And soe it was adiourned viz. the Committee till too morrow in the afternoone to the Court of Wardes.

January 9, Saturday 1640.

The first thing agitated in the morning was touching the order made in the Howse for the committee to enquire about scandalous ministers, and Henry Overtone a stationer was attending at the doore about it who sould the saied pamphlets. It was long disputed whether hee should bee committed or onlie admonished. Most spake that hee should bee onlie admonished. I moved that I was sorrie this pamphlet was printed, I wished it had not been done but being done I wished wee might make as shorte worke of it as wee could. I conceived the error was an error of ignorance, and that hee had a good intent in it. I therfore advized hee might bee called in and sharpelie reproved and soe dismissed. Then it was still further debated, and it grew at last to a dispute whether the Speaker should aske him divers questions how hee came by the copie or onlie whether hee had caused it to bee printed or not: and soe onlie to reprove him. This tooke upp a long time alsoe and manye spake to it. I moved that the way to avoid the further expence of pretious time was to avoid further questions. I beleeved from my experience of written materials, by the falsities of the printed pamphlet that it was transcribed out of a twentieth copie; and soe by examination of one after another wee might make a long worke of divers daies. Ther weere alsoe sundrie speeches of private men divulged and some of the copies verie false but by whome they weere first given out I knew not: which was a greater offence then this. Therfore I desired hee might onlie bee admonished or reprooved and soe dismissed. After this divers spake againe to the question: and soe it was at first resolved that the saied Henrie Overtone should bee called in and the Speaker onlie to aske him whether hee had caused the saied order to bee printed with the additions. And soe the Serjeant brought him in to the barre but not as a delinquent for the Serjeant stoode on the inside of the barre. Soe ther the Speaker asked him if hee had caused the saied committees names with the order and the new additions to that order to bee imprinted and hee confessed hee had; and soe hee withdrew. Then wee fell into a new dispute whether anie further question should bee asked him, or hee should onlie bee called in againe and bee reprooved. Then divers againe, that had spoaken before; soe as SIR HENRY MILDMAY stoode upp and saied with a deepe asseveration unto the Speaker, that hee was in fault of all that disorder by his too much patience, and not reprooving them that spake oftener then they ought.[1] It was alsoe related by the Speaker that wheereas it had been the sence of the Howse yesterday that an order should bee made for the saied Henry Overtone should bee sent for to come and attend the Speaker, that Alderman Pennington had spoaken to the Clarke of the Howse not to enter that order, because hee would undertake the saied Overtone should attend the Howse this morning, and that therupon the Clarke had forborne to enter the saied order.

And therupon MR. WHISTLER moved that this was a great iniurie to the Howse for anie private man to cause the Clarke to forbeare entring the order of the Howse: but MR. PYMME answeared that hee conceived noe f. 134a] offence at all to bee in it; because hee undertooke to see that performed for which the order was intended.[2]

Whilest these and other disputes lasted a message came from the Lordes, and soe upon the Speakers intimation they weere called in being Serjeant Glanvill and Dr Mason one of the Masters of the Request. They being come upp to the table Serjeant Glanvill delivered in two bills ingrossed in parchment which had passed the Lordes Howse. The first being an Act for the naturalizing of Simon Clarke sonne of Peter Clarke and grandchilde of Sir Simon Clarke baronet. The second being an act for the alteration of the estate and tenure of some landes within the parish of Fulham in the Countie of Middlesex held of the Lord Bishop of London as of his manour of Fulham.

After ther departure wee fell upon the old debate touching Henrie Overtone whether wee should have him further examined or onlie reprooved and soe dismissed. But it was at last agreed that hee should bee called in and that the Speaker should only give him a reproofe. Soe being called in againe and kneeling all the time at the barre, the Speaker did remonstrate to him: That hee had greivouslie offended by printing any act or order of this Howse in print without the knowledge or leave of the Howse, and in adding new matters to it of his owne head. But that the mercie of the Howse did encline to passe by this his first offence; and therfore hee should take it for a warning, and looke that noe moore of the saied copies weere divulged. Soe hee was dismissed.[3]

And then the new additions and alterations in the bill of subsidie weere read the first time, and manye names weere new added and divers others weere strucke out with other particulars[4] soe as it was neare upon three of the clocke before the Speaker rose: and hee appointed to bee heere againe on Monday morning by seven of the clocke; to read the saied additions and alterations the second time, and desired that but fortie of the Howse would meete heere without which number noe bill could bee read or other busines dispatcht.

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[1] See Clarendon's estimate of Lenthall. *History* (Macray ed.), I, 221.
[2] The order, however, stands upon the *Journals* (II, 65).
[3] *Cf.* C.J. II, 65, and Peyton, f. 64.

Post Meridiem.

Divers of the Committee appointed to enquire of Bishop Wrens proceedings of which I was mett in the Court of Wardes betweene three and fowre of the clocke. And ther Mr. Guest Mr. Nash and Mr. Baldro three prests in Ipswich confessed that in ther severall churches ther wheer they served they had denied the sacrament to all such as would not come upp to the raile, although they came into the chancell and presented themselves ther: and divers of them under couler that they had not received the sacrament, although it was denied them. And it was prooved that Bishopp Wrenn did not onlie ordaine this by his publike iniunctions, that none should bee admitted to the communion except they came upp to the raile, but by private letters alsoe sent from himselfe or John Novell his household chaplaine. Edward Bedwall and others of Ipswich being soe excommunicate did enter ther appeales into the arches but ther was a caveat[5] putt in, and iustice long denied them till Dr. Lambe had spooken with the Archbishop of Canterburie and then ther appeales weere admitted.

f. 135a] It cost the saied Bedwall and one Samuel Duncon neare 100 marks apeice in the saied suites. And that when they came to anie proctor[6] in the Arches or to anie Doctor of the civill law, they tolde them Bishop Wrenn and the Archbishop weere of such power as ther was noe resisting them. It was further prooved that if anie ministers came to preach in the saied towne of Ipswich they weere cited into the saied Commissaries court ther and troubled, and one Mr Thomas Manning a minister (who had been my subsizar at Cambridge)[7] did at large proove how hee had been questioned. Before hee gave in his testimoniall one Mr Guest before named alledging that hee bowed towards the communion table because hee found the holie fathers in the primitive church did soe, I interrupted him and saied, such disputes ought to bee avoided, that heere weere noe divines and if ther weere yet this was noe place to argue it: and I was sorrie to heare the holie Fathers of the primitive church accused of such an abomination. I therfore desired that the saied Mr Guest might bee asked whether hee weere not induced to the performance of that adoration from the example of a late Father, and that was Father Wrenne: which being asked hee denied it.

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[4] "Resolved by Question That noe Townes or Burroughs should have Commissions for the rate and levy of the Subsidy, unlesse they have used it before time: and the Speaker rated it by a Certificate of the rate of the last Subsidyes, and only those as then had, now were directed to have Commissions.

"Mr. Grimston tooke exceptions That being the son and heire of a knight and Baronett, hee was sett in that bill after others unduely: and though hee could bee content to sitt at the lower end of the Table, yett in an Act of Parliament hee desired his due place and respect might bee done him: which was done accordingly and his name advanced before others to its due place." Peyton, f. 64.

[5] See Phillimore, Ecclesiastical Law (2d ed.), II, 981.

[6] See *idem,* II, 937.

[7] This clause is in cipher.

January 11th., Monday 1640.

After a shorte motion or two of little moment the Clarkes assistant begann to read the names of the Commissioners for the subsidies in the bill; but Mr. Selden moved that Mr Whistler might bee sent for to stand by and that the amendments might bee first read according as hee had reported them, and soe the Bill was laied aside and Mr Whistler was sent for.

It was then moved that the controversie touching the elections of the County and Burrough of Carnarvan might bee referred to the Committee in Sir Lewes Dives busines and it was soe ordered upon the question.

Then was a petition preferred[1] against one William Childe a Scrivener and his sonne who had cousened divers persons of neare upon 40,000£ and soe it was desired a spetiall Committee might bee appointed to which that petition might bee referred. Mr. Maynard and my selfe spake to the contrarie. I shewed that if this petition had suggested anie deniall of Justice in anye Court of law or equitie then it had been fitt for us to have entertained it. Ther was a former case of one Rolf a Scrivener, against whome ther was remedie had in the ordinarie courts in Westminster. And soe at last it was referred to the Committee for greivances.

Then Sir Edward Hungerforde moved that the Committee touching Shippmonie desired to know whether they should onlie enquire into rigorous leviing of it by imprisonment, complaining of to the Councell Table and oppression in distraining.[2] Soe after it had been awhile debated; the Howse referred it to the Committee to use ther owne iudgments in that particular.[3]

Then it was moved touching the burgesses of Teuskburie that it was the vote and opinion of the Committee that they should not sitt in the Howse till the election weere determined. But it was not put to the question nor determined in the Howse.

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[1] By the creditors of Child. C.J. II, 66. Rushworth (IV, 134) adds: "And it was intended that a bill should be drawn for an Act to prevent such Fraud hereafter."

[2] "Divers motion were made this day concerning Sheriffes rigorous proceedings in the levying of Shipmoney, and it was moved that their might be a difference made between those that levyed according to the Writ, and those who proceeded according to the instructions, by imprisoning of parties, and Constables, and causing them to be sent for by Pursevants." *D.O.* 18.

[3] The committee was to decide what particulars of the case they thought fit to be proceeded in and to present them to the House. C.J. II, 66.

Then ther was a motion made by the Speaker that hee had received a letter from the cittie of Glocester, wheere hee was Recorder that about 20 f. 136a] of that towne that had been souldiers in the Northren armie, had served long ther and taken pay;[4] and they desired to know what they should doe with them. This report drew the Howse into a long dispute first how monie should bee provided to send speedilie downe to the Kings armie; and secondlie how those should bee punisht that had runne away. After divers disputes[5] the further determination of this was putt offe till too morrow morning.[6]

Then weere the articles preferred by this Howse against John Lord Finch late Lorde Keeper of the great Seale of England to have been read. SIR SIDNEY MONTAGUE spake to the title of them in which hee was called John Lord Finch Baron of Fordwich; and saied hee could not bee both Lorde Finch and Baron of Fordwich; others spake to it. I saied that the mistake of his title might disanull the whole processe, and that wee had divers examples of errors assigned in Judgments of Parliament as well for the mistake of titles as of matters. It was verie certaine unles hee had two Baronies hee could not bee both Lord Finch and Baron of Fordwich, and therfore it was necessarie to see by what name or title hee was created.[7] Soe after a little dispute[8] Sir Sidney Montague and my selfe weere appointed to goe to the chappell of the Rolls to see the enrollment of his Letters Patents. But I conceiving the enrollment was not yet come in to the Rolls went first to the six Clarkes office and ther wee found in the Kings warrant signed by himselfe for drawing upp the saied Letters Patents that hee was created *Baronem Finch de Fordwich in comitatu Kanciae*.[9] Wee went away about eleven of the clocke and returned about twelve[10] in the morning and then the amendments and commissioners names in the Bill of Subsidie weere in reading, which weer not finished till about two [of] the clocke in the afternoone with the other amendments in the same bill. But I withdrew before the same was finished, and returned a little after the rising of the Howse.

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[4] "That 19 Souldiers were come out of the Army to Glocester, and it is feared many others will depart voluntarily, unlesse speedy course be taken." *D.O.* 18.

[5] It must have been at this point that Sir John Hotham remarked: "If a man take Prest-money willingly, hee hath contracted with the king and is bound to stand to his contract, under the paine of felonie: Butt it is nott declared yett, whether the king can presse any freeman of England without his consent." Peyton, f. 65.

[6] See below, n. 10.

[7] Peyton (f. 65) makes D'Ewes say: "The old writts of Summons of the Peeres to the Parliament have only the title, Chevalier."

[8] It may have been at this point that Pym remarked: "That when any matter of Record was vouched in the house; It is nott the Custome to send members to view the Record; butt the Serjeants man, or Clerks man was sent to bring the Record in thither, which agrees best with the dignity and honour of the house." Peyton, f. 65.

[9] *Cal. St. P. Dom. 1640,* 12.

[10] Considerable business was transacted during this hour. The articles against Finch were voted upon and ordered to be ingrossed. St. John was at the same time to carry up to the Lords the business of the ship money. C.J. (II, 66) adds here, "And the Clerk is to wait upon him with the Transcripts of those matters in the mean time." It must have been in debate on this resolution that Pym remarked (according to Peyton, f. 65) that "All matters that are transmitted in writing from us to the Lords must bee done in Parchment being to remaine of Record." Then Lord Falkland was chosen to carry up the articles against Finch to the Lords. After this the House must have reconsidered their postponement of the matter of the army, for a committee was

Post Meridiem.

The Committee for Dr Bastwicks busines of which I was sate in the afternoone in the checquer chamber. After a little examination of one John Wragg a messenger, who confest divers written bookes and paper bookes in latine weere taken from Dr Bastwick by him. Then it was prooved that at his sentence his Counsell taking exception at the witnesses deposed against him, they saied they would not intermeddle with the testimonies of the witnesses but woulde onlie condemme him upon his booke styled *Elenchus Pontificiae*[11] *Religionis* in latine, to which was added in latine alsoe another little pamphlet as an appendix intituled *Flagellum Pontificis et*[12] *Episcoporum Latiolium* imprinted A°. Dm̄ 1627, at London and dedicated to King Charles: which booke hee wrote upon a conference had with one Doctor Shorte a papist:[13] and yet in that booke hee doth not directlie denie anie iurisdiction of the Bishops of England. At that sentence it was prooved that Dr. Bastwicke tolde the Archbishop of Canterburie that though hee weere a lay man yet hee might as well write divinitie as one Mr. Chauney[14] had done; who had alsoe written falselie. This Thomas Chauney was of Alfrestone in the Countie of Suffolke and had written (or at least it was published in his name) a little pamphlet in latine called *Collectiones Theologicae*[15] which was licenced by the now f. 137a] Archbishop of Canterburies chaplaine and didicated to the same Archbishop in which hee maintaineth amongst other false tenents; that the church of Rome is a true church and that it doth not erre *in fundamentalibus* but onlie *circa fundamentalia*. The Archbishop taking the booke saied hee did not know of the dedication of it to him: but having perused some of it hee saied, hee found his chaplaine had licenced it: and hee saw noth-

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appointed "presently to retire into the Court of Wards to consider of some fit and speedy course for providing of money for the King's army." Then they provided for paying the customers who had advanced money, postponed a private bill, and were engaged upon the subsidy bill when D'Ewes returned. C.J. II, 66.

[11] The title should be *Elenchus Religionis Papisticae*.

[12] This treatise and that just mentioned were published in Holland in 1633-1634.

[13] Bastwick says of his two books: "being thereunto provoked by one Richard Short, a Papist that maintained the Popes supremacy, the Masse and the Papall Religion." *The severall Humble Petitions of Dr. Bastwicke, M. Burton, M. Prynne . . . to . . . Parliament* (1641), 11.

[14] "One Thomas Chawney of Essex." *The severall Humble Petitions of Dr. Bastwicke, M. Burton, M. Prynne . . . to . . . Parliament* (1641), 12.

[15] Chouneus, Thomas, *Collectiones Theologicarum quarundam conclusionum ex diversis authorum sententiis . . . excerptae* (1635).

ing in it but that which might bee verie well allowed, because the church of Rome indeed did not erre in Fundamentals.[16] At this sentence alsoe of Dr Bastwicke which was February 12, 1634 in the high Commission Court; divers of the Bishops present did say viz. Dr. Neale then Bishop of Winchester Dr. White Bishop of Ely and Dr. Juckson now and then Bishop of London and Lord Treasurour of England, That they claime ther calling as Diocesan Bishopps with all the dependences therupon and the iurisdiction belonging to it *iure divino,* and [not] from or by the Kings grant or of any civill power.[17] And the now Archbishop of Canterburie added, that hee held his provinciall power and the iurisdiction belonging to it by the same divine right and noe otherwaies. That all added that Bishops ancientlie had ther throanes which shewed ther power to bee independent. That Bishops weere moore ancient then Kings, and that Bishops could better subsist without Kings, then Kings in ther Monarchichall goverment without Bishopps. The same Lord Treasurour saied that hee had perused Dr. Bastwicks booke and found nothing but scripture arguments in it. *Nihil nisi carbones.* Most of the Bishops alsoe spake verie revilinglie and baselie of Mr. Calvin.[18] Then followed the sentence against Dr. Bastwick after Bishop White had reviled him alsoe, which sentence was, that hee should bee imprisoned perpetuallie till hee performed a submission was intended to bee prescribed him. That hee should pay a 1000£ fine, and practice noe moore as a Dr. of Phisicke. All which sentence was performed except the paiment of the thousand pounds. Then after hee had remained long in prison hee wrote a booke called *Apologeticus ad praesules Anglicos*[19] in latine in answeare to the saied Mr. Chauneys popish booke formerlie mentioned; for which and another booke called his *Letanie* then onlie in written hand[20] ther was an information preferred against him in the Starrechamber, by Sir John Bankes the Kings attournie generall about the beginning of Februarie 1636 which information alsoe was iointlie preferred against Mr. Burton and Mr. Prinne as well as himselfe. In it hee was particularlie charged to have been author of the saied two bookes, and iointlie charged to have contrived with the saied Mr. Burton and Mr. Prinne for the publishing of other[21] scandalous bookes ther alsoe in the same information named. Nor was the saied Doctor Bastwicke then at libertie but a close prisoner by the censure of the high Commission Court;

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[16] Bastwick's statement in *The severall Humble Petitions.*

[17] *Ibid.*

[18] Bastwick's statement in his petition to the Commons. *The severall Humble Petitions,* 13.

[19] Πραξεις των ʽΕπισκοπων, *sive Apologeticus ad Praesules Anglicanos* (1636).

[20] *The Letany of John Bastwick, Doctor of Phisicke* (1637), reprinted in Somers's *Tracts,* V, 407-437.

[21] *Newes from Ipswich;* and *A Divine Tragedie, lately enacted, or a collection of sundry memorable examples of Gods judgements upon Sabbath-breakers;* Burton, *An Apology, or an Appeale.* See testimony in *A brief Relation of certain . . . Passages and Speeches in the Star Chamber* in *Harl. Misc.* IV (1809), 13.

for those verie bookes above mentioned. Soe as this proceeding was most uniust to punish him twice for one and the same offence; if it had been an offence; soe for the further hearing of this busines the Committee adiourned it selfe to Friday Jan. 15, in the afternoone.

January 12. Tuesday. 1640.

After a report made by **Sir Sidney Montague** and my selfe touching the style of the creation of Sir John Finch knight into the style and title of Baron Finch of Fordwich in the Countie of Kent which wee found in the bill signed with the Kings owne hand. A motion was made by **Mr. Glynne** touching Sir Christopher Yelvertons Election for one of the Burgesses of Bosinny in the Countie of Cornewall. Hee shewed that hee was f. 138a] returned by a single indenture under the towne seale and that two others weere elected at the same time and had equall voices with him, who did forbeare the Howse but that Sir Christopher Yelvertone did sitt; and therfore hee moved that hee might alsoe forbeare the Howse till the election weere determined at the Committee of priviledges. Divers spake for Sir Christopher that hee might sitt still. But others alledged it was against the orders of the Howse that hee should sitt: and soe it was resolved upon the question that hee should forbeare till the election weere determined at the saied Committee.[1]

An act for the confirmation of certaine copyhold landes and of allotment of common of the Tenants and inhabitants within the mannour of Hatfeild in the Countie of Yorke and of the severall townes of Fishlake and Sithhowse[2] parcells of the mannours from the inundation of waters, read 1^a vice.

Sir Arthur Ingram was Lord of the saied mannour and a member of this Howse, and stood upp and averred that this bill was put in without his consent and that ther was a suite depending now in the exchecquer Court in this verie busines. Soe divers spake that the Bill might bee cast out; but others weere against it; and at last upon **Sir Philip Stapletons** motion, the Bill was suffered to rest in the Howse, till the iudgment in the Exchecquer was past.[3]

Sir John Hotham made report what the Committees had done on Friday last the 8th day of this instant Januarie when they retired into the committee chamber to consider what Committees weere fitt to sitt to dispatch the great busineses of the Kingdome and what committees weere to forbeare. And soe they did and agreed that these Committees following should sitt *de die diem* or everie afternoone, viz.[4] 1, committee for Priviledges.[5] 2, Committees touching the Earle of Strafford,[6] Archbishop of Canterburie,[7] John Lord Finch late Lorde Keeper of the great seale of England, The judges[8] and Sir Francis Windebanke late secretarie. 3, Touching Recusants.[9] 4, Jurisdiction of Courts.[10] 5, Jurisdiction of high Commission Court.[11] 6, The power and uniust proceedings of the Councell table.[12] 7, The committee of the 24.[13] 8, shipp-monie.[14] 9, Bishop

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[1] See *M. of P.* I, 486, n. 7. See below, p. 362, for action finally taken.

[2] Sike Howse. C.J. II, 66.

[3] Postponed until further order from the House. *Ibid.*

[4] Peyton's version of this report (ff. 65-66) is given here in full in order to facilitate comparison with D'Ewes as to the title of each committee. "Sir John Hotham Re-

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ported from the Committee appointed to consider what Committees were fitt to stand and what to bee suspended; That the more generall should only subsist for the present, which were these. 1, That of my Lord Canterbury. 2, That of my Lord Strafford. 3, That of Mr. Secretarie Windibank and the Recusants. 4, That for my Lord Keeper, The Judges, and Ship-money. 5, That of the Bishop of Bath and Wells. 6, That of the Bishop of Elie. 7, Thatt for Eleccions and other Priviledges of the house. 8, That for the breache of Priviledges of former Parliaments. 9, That concerning the Starre Chamber and Proclamation Lawe, and the High Commission, and undue proceedings at the Counsell Table. 10, That of the 24 persons to drawe a Remonstrance of all the present Evills and Greivances of the kingdome, to present to the king. 11, That for the frequent holding of Parliaments. 12, That for the Northerne parts. 13, That for my Lord Marshalls Courte. 14, That for the rigorous levying of ship-money. 15, That for the abuses of Lord Lieutenants and Deputy-Lieutenants, and for drawing a Bill for restrayning their power. 16, That for Salt, Sope, and Leather. These only are thought fitt to bee in being; and the five Grand Committees. 1, That of Religion. 2, That of Trade. 3, That of Greivances. 4, That of Irishe affaires. 5, That of Courts of Justice."

[5] D'Ewes is evidently wrong here both as to order and content (compare with Peyton and also the *Journals* (II, 66) and *D.O.* (18-19), which give the order as acted upon in the House). The order is important as showing the principle on which the selection of committees was made. The work of first importance was to be the attack on particular men; other select committees were to be retained only if they aided in that work. And, on the side of content, he seems to have missed the fact that besides the regular committee for privileges, elections, etc., appointed Nov. 6, there was a special committee for Breaches of Privileges of Parliament, especially that of 3 Caroli appointed Dec. 18. Both of these should have been given.

[6] This is the famous "Committee of Six" appointed Nov. 11.

[7] This is the committee to present the new canons to the Lords "and to consider and examine who were the promoters . . . in particular the Archbishop of Canterbury," appointed Dec. 16. C.J. II, 52.

[8] Peyton, not D'Ewes, is correct here. The Committee on the Property of the Subject, appointed on Nov. 27 to consider "illegal taxes . . . and proceedings thereon" (C.J. II, 38), was on Dec. 8 ordered "to make a preparation of the vote of this House, passed here, concerning Ship-money to be transferred up to the Lords; And . . . prepare a charge against the Lord Keeper, and the rest of the judges." C.J. II, 47.

[9] Again Peyton is right. To the Committee on Popish Recusants, appointed Nov. 9, "the whole busines concerning . . . Secretary Windebank" was referred on Dec. 1. C.J. II, 42.

[10] Court of Star Chamber was undoubtedly intended. D'Ewes errs in making this a separate committee.

[11] This committee, appointed Dec. 3 (C.J. II, 44), was to consider also the jurisdiction of the Star Chamber.

[12] There was no committee for proceedings of the council table, as can be seen from the fact that this work was handed over to the committee just named (C.J. II, 66). That may have been Hotham's recommendation. *Cf.* Peyton.

[13] The Committee on the State of the Kingdom, appointed Nov. 10 (C.J. II, 25), was commonly referred to in this way (C.J. II, 28).

[14] Appointed Dec. 5 (C.J. II, 45), and concerned only with complaints against the levying of ship money.

of Bath and Wells.[15] 10, Coate and conduct monie.[16] 11, Weymouth.[17] 12, Bishop of Ely.[18] 13, Annuall Parliaments.[19] 13, Kings revenue.[20] 14, Kings armie.[21] 15, Court of Honour[22] and 16, all grand Committees.[23] And all others with all subcommittees to cease till further order.[24]

Mr Pymm moved that Sir Henry Wallops petition against the Earle of Strafford might bee referred to the Committee appointed to examine the complaints against the Earle of Strafford.

Then it was resolved upon the question that the Committee to examine the proceedings of the high Commission Court and the Court of the Starre-chamber, might alsoe examine the undue proceedings of the Counsell table.

Resolved that the Committee for Waymouth should only meddle with salt soape and leather.

Resolved upon question that all subcommittees made out of the Grand Committees should cease and noe others bee made till further order.

The question was proposed that the grand Committee for Religion should take into consideration the proceedings of the Ecclesiastical Courts, and the goverment of the Church as it now stands, and present it to the

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[15] Appointed Dec. 12 (C.J. II, 50).

[16] The committee for the abuse of Lord Lieutenants and Deputy Lieutenants and for preparing a bill for the rating and regulating of arms and for the abuse of levying coat and conduct money, which was appointed Dec. 14 (C.J. II, 50).

[17] The committee "to take into consideration the petition of the inhabitants of Weymouth . . . and the several patents of salt, soap, leather, and wines," appointed Dec. 21 (C.J. II, 55).

[18] Appointed Dec. 22 (C.J. II, 56).

[19] This is the select committee to which the bill was referred after its second reading on Dec. 30 (C.J. II, 60).

[20] This was a business which had been taken up in the House and for which there was no committee. The motion made later, on this part of the report (C.J. II, 67), suggests that there was no intention of forming a committee, but rather that Hotham had gone beyond committees to restriction on bills.

[21] There was a committee appointed Nov. 21 "to consider of the state of the King's army; . . . and to consider of the state of the Northern Counties." C.J. II, 34. There is no record concerning this committee after Dec. 22 (C.J. II, 56), but on Jan. 11 another committee was appointed "to consider of some fit and speedy course for providing of money for the King's army, and regulating the same" (C.J. II, 66), a committee having much the same duties and same personnel. This committee reported on the 13th and so must be the one referred to here.

[22] This is the Committee for the High Constable and Earl-marshal's Court, appointed Nov. 23. C.J. II, 34.

[23] *I.e.,* for Religion, Trade, Irish Affairs, Grievances, and Courts of Justice. C.J. II, 21.

[24] D'Ewes's record is fairly complete, though he is more careless than in most places. He could not have done what he often did, he could not have gone to the clerk's table to get the exact form of important matters. Rushworth (IV, 134), who in the main follows *D.O.,* is even worse in his arrangement of committees. He leaves out the Committee on Star Chamber and High Commission, putting in a Committee on the Council Table, which was but one function of a committee with at least four functions (note "Proclamations" in Peyton). *D.O.* (18-19) leaves out the committee for the King's army and the northern parts, that for grievances, and that for Irish affairs.

Cf. Baillie (I, 291), who puts in a committee about "Goring and the Monopolies," which is probably the same as the committee for "Salt, Leather, and Soap."

Howse. Some would have had the words the irregularitie of the Goverment: but most desired it to have it Goverment.

f. 139a] I moved that the question might bee putt of the goverment of the Church because the irregularities and the goverment weere now intermixed not as water and oile which might bee separated, but as water and wine which could not bee divided. Nor could I promise but that wee should as well looke into the irregularities of the Governors of the Church as of the Goverment itselfe, for both needed it. Some of those learned men have saied publikelie that Bishops weere before Kings, and that they had throanes to shew ther indepen[den]cie. How ancient soever ther order was, yet doubtles ther Baronies weere but of a late date, and I desired to have them restored to ther primitive Antiquitie. For ther intermedling in secular affaires it was distasted in all times. It appeares upon Recorde in Rot. Parl. de a°. 45°. E. 3 n°. 15°.,[25] that it was the complaint of the Lordes and Commons that it tended to the disherision of the crowne and destruction of the Common wealth that clergie men weere imploied in temporall offices. For a little before that time they weere not onlie Justices in the Courts of Westminster but sheriffs of shires. The Archbishop of Yorke was a sheriffe and soe weere other Bishopps as I could produce the Records to proove it if ther weere now time. I did therfore desire that wee might restore that sacred function to its pristine glorie: and I was confident, that none of that order would bee against it, unles such onlie as did love ther kitchin ther bellie and ther ambition above the glorie of God and the good of the Church, nor doubted I howsoever the question weere putt whether of the Goverment or the irregularitie of the Goverment, wee should proceed with that discretion and moderation as to question nothing but what weere fitt to bee questioned.

Then after a motion or two moore it was resolved upon the question that the saied Grand Committee for religion should take into ther consideration the proceedings of the Ecclesiasticall Courts and the Goverment of the Church, and to make report of it to the Howse.

Then it was resolved upon the question that the petitions of Henry Wallop,[26] Viscount Netterfeild of one Paine and of one Lymocke[27] should bee referred to the Committee that was appointed to receive the complaints against the Earle of Strafforde.[28]

It was alsoe resolved upon the question that all those Committees which Sir John Hotham had reported weere to sitt *de die in diem* should soe sitt. And it was further resolved upon question that all other Committees should cease after this afternoone and sitt noe moore till further order weere taken by the Howse.

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[25] *Rot. Parl.* II, 304.

[26] Sir H. Wallop, according to C.J. II, 67.

[27] Nettersfield, Faes, and Lommock. *Ibid.*

[28] To the subcommittee appointed by the grand committee for Irish affairs, "because there is something in those petitions, that will materially conduce to the charge of the Earl of Straford." *Ibid.*

Then a little after the Customers weere called in of whome the Howse had desired that they should advance 60,000£ to bee sent into the North: Ther answeare was they desired to conferre with a Committee this afternoone, of the Howse, and they did hope to give the Howse satisfaction. Soe it was conceived fitt that they should conferre this afternoone with the Committee alreadie appointed in the Northren busines, and Mr Tomes[29] who was alsoe called in to the barre twice to give an account in whose handes any arreares of Customes weere, with some others weere to attend the same Committee this afternoone in the Court of Wardes and Sir Henry Vane and Sir Robert Pye weere added to the same Committee. This matter was soe at length ordered after it had been long debated.[30]

f. 140a] Then Mr. Justice Reve and Mr. Justice Foster being sent to the Howse of Commons from the Lordes and having waited a pretie while without weere brought in by the serjeant after the accustomed manner. Mr. Justice Reve delivered the message which was that the Lordes desired a conference presentlie by a committee of both Howses in the painted chamber if it might stand with the conveniencie of this Howse. Soe the messengers being withdrawen wee concluded that wee should meete presentlie. Soe the same messengers being againe called in the Speaker tolde them, That the Howse had considered ther Lordships message and would give them a meeting presentlie. Soe the messengers being againe withdrawen wee named Mr Treasurour and others[31] Reporters, and then wee hasted to the painted chamber wheere some of the Lordes weere sett and others came after and the yong Prince with the Earle of Arundel Earle Marshall. The saied Earle Marshall spake first and tolde us that his Majestie was desirous to acquaint the two Howses with the great affaires of estate, and how the treatie had further proceeded betweene the Lorde Commissioners of England and the Commissioners of Scotland, which hee saied was further to bee related unto us by the saied Lords Commissioners. Then the Earle of Bristow stood upp and saied that since our last meeting they had fullie agreed the Article touching the restitution of Shipps and damages.[32] Then the Lorde Paget read the saied Articles with the answeares to them. And the Earle of Bristow spake further and shewed why the Commissioners thought fitt to allow the Scotts damages for the repairing of the shipps taken from the Scotts. Then the Earle of Bristow saied that they had alsoe proceeded in the treatie upon the 5th Article which was for restitution of damages to the Scotts.[33] Hee confessed that it could not but bee sadd newes to us all that after soe much monie given for the releife of the Northren Counties and the paiment of the Kings armies, to heare of new paiments, but such was the fatall necessitie of the present time as hee was necessitated to propose to us what had been agitated in this particular. Then hee delivered a paper to the Lord Wharton who read it conteining at large the Scotts proposition for a refusion or satisfaction of damages they alledging that ther charges came unto above 700,000£ and that the Parliament of England had seen that what they had done was for the good of both kingdomes they would in Justice see them receive recompence.[34]

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[29] Mr. Toomes, surveyor-general of the customs. *Ibid.*

[30] D'Ewes's account of this day in the Commons is very full and very like that in the *Commons Journals*. One cannot read the proceedings through here without realizing that the Commons are behind, and are hurrying.

[31] See C.J. II, 67.

[32] "That our Ships and Goods, with all the Damages thereof, may be restored." This is the head of the fifth article in the Scottish demands. L.J. IV, 112.

Then the Lorde Paget read out of another paper ther particular demands or particular summs expended, and ther losses;[35] by blocking upp of trade and otherwise. These being both read the Earle of Bristow made a pithie and a iudicious speech, that at first indeed when the Scotts made this vast proposition it startled him to thinke what a dishonour was fallen upon this ancient and renowned nation. But when hee considered, that this dishonour fell upon us by the improvidence and evill counsells of certaine badd instruments, who had reduced his roiall Majestie and this kingdome to these straits; hee well hoped the shame and parte of the losse would fall upon them. Hee did hope alsoe that God would soe farre blesse us that f. 141a] we should wiselie and happilie compose the present differences soe as both nations being happilie conioined in one Monarchie againe, and setled in peace and obedience under one and the same soveraigne, wee might soon pitch upon some great action that should fullie restore our glory. Before this last speech of the saied Earle of Bristowe was spoaken after the Lorde Mandevile had read our Lordes Commissioners question proposed to the Scotts and ther answeare, our Lords Commissioners asked them if they demanded this summe positivelie as due to them; or desired us as freinds to beare a parte of ther charge. They answeared they did not propose it positivelie as of right-due, but expected that as they weere readie to beare what possibly they weere able, soe wee would partake of the charge as of the benefitt. It was past twelve ere the conference ended, and being returned to our Howse, the report of this conference was put off to a further day.

Post Meridiem.[36]

In the afternoone betweene three and fowre of the clocke divers of the

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[33] This is the sixth article. *Ibid.*

[34] *Ibid.*, 130.

[35] The Scots reckoned their expense in the late war at 785,628£; of this they were willing to put 271,500£ out of account. Of the remainder, or 514,128£, they offered to bear as much "as the Parliament should find reasonable or us able." Baillie, I, 289; Gardiner (IX, 261) has here corrected Baillie from the original MS. and has used also Borough's Notes (*Harl.* ccclxvii, 50).

[36] For minutes of the Committee of Religion on this afternoon, see *Proceedings in Kent, 1640*, 96-98.

Committee touching Bishop Wrenn of which I was mett in the Court of Requests. Ther it was prooved against one Mr. Gawin Nash Curate of the Tower Church in Ipswich that since Bishop Wrens time viz. since the yeare 1636, hee had bowed to and towards the elements: that hee crossed them in the act of consecration; that hee had denied the sacrament to such as would not come upp to the raile. That hee had preached that Christ was corporallie present in the sacrament; that hee was soe humble as to dwell under a crumme of bread. That all that wee had was the Kings; and that they weere traytors and rebels that did not pay shipp-monie, and loane monie and all other taxes imposed by the King. And in catechizing upon the 2d Commandement hee saied that images weere lay mens bookes and fitt to bee had in Churches: with divers other particulars to the same effect.[37]

January 13th Wednesday, 1640.

Sir Thomas Withrington made reporte touching the vote of the greater parte of the Committee in Mr Hobbie and Mr Burlacies[1] controverted election for the towne of Marlow magna in the Countie of Buckingham. That Mr Hobbies election was void. This raised a long dispute in the Howse, divers speaking for Mr Hobbie, and my selfe alsoe amongst others being one of that Committee. I shewed it was objected but not prooved against Mr. Hobbie that hee had spent 14£ in the towne to procure an election. And that hee did procure one Moore to bee taken from the election by a messenger of this Howse: but it appeared that hee had noe hand in it; and that the messenger came accidentallie; being sent from this Howse to fetch upp the saied Moore as a delinquent for his miscarriage in a former election. And thirdlie that Mr Hobbie had not soe manye voices as Mr Burlacie taking out Almes men that had noe voice. But this prooved otherwise alsoe; for, when they named divers of those they called Almes men at the Committee; it was prooved they weere labouring men that had freehold copiholde or a stocke of cattail; and tooke noe almes or towne collection. And because his election was in all points as good as Mr. Whitlocks which wee had voted and allowed[2] I did not see how it could stand with the Justice of this Howse to allow the one and to discompose the other. Soe after other disputes about the same election and motions made touching Mr. Hobbies having been a sheriffe; the whole matter was againe recommitted to the same Committee.[3] Then it was disputed in the Howse touching the customers lending 60,000£ and after a long agitation they and Sir Paul Pindar weere called in: and soe they promised that they would advance 20,000£ within a weekes space, and 20,000£ fifteene dayes after, and 20,000£ moore fifteene dayes after that.[4] f. 142a] Soe the Customers being withdrawen, it was debated that the Lorde Falkland should goe upp with the charge against the Lorde Keeper. And that Mr Saint John should goe upp with the charge against the Judges. And that Mr Whitlocke should assist him to read the iudgement in the Exchequer in Mr Hamdens case.[5]

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[37] For the Committee of Trade Peyton (f. 66) gives the following: "Patents are Lawfull which are nott *ad Damnum, Populi,* and where it is good for the buyer and seller. It is against the Lawe to putt Bullyon into any thing butt money or Plate."

[1] *Cf.* p. 142, n. 1.

[2] On Jan. 5.

[3] The two men were to forbear to sit in the meantime. C.J. II, 67.

Then was a petition preferred by Sir Edward Deering in the name of the Countie of Kent for ther ease and deliverance from the tyrannicall power of the Bishopps and the abolishing of the verie Hierarchie it selfe.[6] Then was a petition preferred by Sir William Massham to the like effect in the name of the Countie of Essex. Then Sir Philip Parker preferred a petition in the name of divers ministers of the Countie of Suffolke, desiring some releife from ther present burthens.[7] Upon the deliverie of these petitions it was agitated and debated in the Howse that wee should appoint a certaine day for the reading of those other petitions and for the debating of the Ecclesiasticall goverment. Divers spake for a long day and divers for a shorter. I moved that the greatnes of the matter in question and the present danger of it, did require a speedie remedie. For as one false heart within a cittie was of moore moment to the ruine of it then an armie without; soe some evill instruments in a Church did moore mischeife then the common adversarie. What Beza saied of the *Flacianorum cohors*, wofull experience had taught us to have prooved true in the Pseudo Lutherans of Germanie that they have ruined not onlie the other Churches ther but themselves alsoe. And wee see that a few wicked instruments amongst us at home, have within the space of some fifteene yeares, moore weakned and undermined the Truth then all the whole popish and Antichristian partie by ther conspirations and machinations could doe in sixtie yeares before. And I did not doubt, but that as it was the glorie of a Prince to restore his coine from adulterate and base, to pure and genuine; soe it would much conduce to the glorie of his Majesties raigne, that wee could change the greater parte of the clergie from brazen leaden yea and blockish persons, to a golden and a primitive condition. That ther authoritie might bee warranted by ther godlie example, and ther good example might follow ther authoritie. For it was evident that since the prelates had been debased and adulterated by the addition and intermixture of ther temporall Baronies with ther Ecclesiasticall functions, all the miseries calamities civill warrs at home and losses and dishonours abroad had originallie proceeded and fundamentallie risen from them. This I saied I could make good by irrefragable authoritie. And the discussion of this particular requires our speedie consideration, because wee see the Lordes day still profaned, ther adorations still practiced and ther hereticall preachings dailie exercized. Wee have great cause therfore speedilie to consider of this, that some remedie may bee applied least, if wee doe nothing but dispute, wee may faile of that blessings which wee may hope from God upon our designes. Wee may well hope alsoe that all of us who come heere, come with an upright heart to doe what our consciences shall lead us unto. And I hoped that as our ancestors amongst the old English-Saxons did call Religion *æfestnesse* which is compounded of *Æ. lex* and *festnesse firmitudo,* to shew that religion was the most firme bonde under heaven to unite mens hearts together, soe when wee came to the dispute of this busines wee shall bee united together with one sympathie and harmonie of hearts and soules. Which that it might bee noe longer deferred, I wished wee might appoint the day on Monday next for the discussing and reading of the present petitions.

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[4] Hotham had reported from the committee appointed to provide money for the King's Army. He stated that the customers had attended the committee the day before "according to an order yesterday made," but the order was that they should attend the House that morning at eight. Perhaps it was due to some confusion in the order that Pindar attended the House. But according to the *Journals* (II, 66, 67) he came alone, and their promise to advance money was made at the committee.

[5] Howell, *State Trials,* III, 1252-1254.

[6] In *Proceedings in Kent, 1640* (*Camden Soc.*), 25-38, are given all the documents connected with this petition, the letter from Richard Robson through whom it was sent, Dering's speech in the House upon the presentation of the petition, the petition in full, and in the abbreviated form in which he gave it to the House. Dering's speech is given also in *S. and P.* 97-99, and the condensed form of the petition in Rushworth, IV, 135-136.

Peyton (f. 66) states that the petition had "2000 handes."

[7] Peyton has a longer list; he adds Canterbury, Norfolk, and Warwick. *Ibid.*

f. 143a] Then after some other dispute it was at last resolved upon the question, that the saied petitions should bee read and the matters in them bee discussed on Monday come sennight: and it was soe resolved upon the question and ordered.

Then after a shorte motion made by Mr. Rouse on the behalfe of one Mr. Peter Smart a minister;[8] the articles of our impeachment against John Lord Finch of Fordwich being engrossed in parchment weere read by the clarke, and the title being amended according to Sir Sidney Montagues reporte and mine, was put to the question whether it should soe stand amended, and it was resolved it should: and then the whole articles weere alsoe soe voted.[9] Then some made a scruple whether this title differing from the title used in our message, might not preiudice this cause. But it was rightlie answeared that was but a verball message, but this would bee matter of recorde.

Then it was moved that a message might foorthwith bee sent upp to the Lordes, to desire a conference with ther Lordships by a Committee [of] both Howses at ther Lordships best conveniencie, in which wee might make good our charge against John Lord Finch of Fordwich late Lord Keeper of the great seale of England; with other matters that concerned the libertie of the subject and the propertie of goods: which was ordered accordinglie, and Mr. Arthur Goodwin was appointed to goe upp with the message which hee did.

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[8] *Cf.* C.J. II, 67.

[9] The articles are given in Rushworth, IV, 136-138.

After his going the Howse being verie thinne some motions of noe great moment weere made. Amongst which I moved that the Committee appointed to receive petitions touching Bishop Wrenne might have ther power enlarged; to receive likewise all petitions and complaints against the present Bishop of Norwich. For many of our innovations and pressures did still continue, soe as divers petitions alreadie preferred concerned both the innovations sett upp under Bishopp Wrenn; and the continuance of them under this Bishop and soe wee stood as yet disabled to redresse the present pressures and greivances, till our authoritie weere enlarged. Soe the Speaker putt it to the question and it was yeilded unto,[10] and soe ordered.

Then Mr Hollis moved that one of his servants had been arrested before the Parliament begann at the Bishop of Salisburies suite; and that since the assembling of the Parliament a declaration was delivered in against him; and the suite proceeded in. Soe three persons that [had] a hand in the saied suite came into the Howse first one of them alone being the atturnie in the same and then the other two being the bailifs that had arrested him, and kneeling at the barre and confessing ther faults weere dismissed paying the Serjeants fees.[11]

Then Mr. Arthur Godwin made reporte, that the Lordes answeared they would give us a meeting too morrow at nine of the clocke in the morning in the painted chamber.

Mr. Pymme did lastlie make a motion that because the articles against the Lord Finch weere verie long, that some bodie might bee appointed to assist him[12] in the reading of them if neede should require. And Mr Hide was appointed therunto by the Howse: and soe wee rose after one of the clocke.

Post Meridiem.

Betweene three and fowre of the clocke in the afternoone divers of the Committee in Mr Prinns busines and others that conduced to the same f. 144a] purpose of which I was mett in the Court of Wards. It was first prooved to us by the originall letters of Dr. Bridgman Bishop of Chester that hee commanded divers ministers in Chester to preach[13] against Mr.

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[10] "But they are to proceed first with the matters touching the Bishop of Elye." C.J. II, 67.

[11] *Cf.* C.J. II, 67-68.

[12] *I.e.*, Lord Falkland, who had made the request. C.J. II, 68.

[13] A slight overstatement. See Prynne, *A New Discovery of the Prelates Tyranny* (1641), 94-95.

Prinne Dr. Bastwicke and Mr. Burton. Dr. Wickham alsoe at the high Commission in Yorke saied of them that they had deserved to have lost ther heads:[14] and compared them to Korah Dathan and Abiram. And that the Mayor of Chester assisted or rather drawen to it by one Roger Blanchard a pursuivant did burne one or moore of Mr. Prinns pictures in Chester openlie neare the market crosse ther.[15] After this wee proceeded to the proofe of Calvin Bruins petition being one of the Chester men that was questioned in the high Commission Court at Yorke, and sent for upp before the Lordes of the Councell onlie for visiting Mr. Prynne in his passage through Chester aforesaied to the Castle goale of Carnarvan in Wales.[16] It was fullie prooved by the testimonie of the saied Roger Blanchard the pursuivant and others, as alsoe as by originall letters and the copies of the Acts and orders and other proceedings in the saied high Commission Court at Yorke and the Councell table heere. That the Archibishop of Canterburie did first send to Dr. Bridgeman Bishop of Chester to know the names of them that visited Mr. Prinne in his passage through Chester. That after that the saied Calvin Bruin was fetched upp to the saied high Commission at Yorke by the same Roger Blanchard and before the Lordes of the Councell by one Goldsborough a messenger. That hee paied them such fees as in the petition are sett downe.

The Articles preferred at first against him in the same high Commission Court at Yorke, with the additionall articles and his answeares to them both. The sentence of that Court. And soe farre wee proceeded this afternoone. The committee sate till betweene six and seven at night and then adiourned it selfe to friday next to the same place.

January 14th, Thursday, 1640.

An act for the shortening of Michalmas terme was reading when I came into the Howse, read 1^{a} vice. The Speaker saied that this bill had passed both the Howses in 21^{o}. Jacobi.[1]

Roger Blanchard a messenger of the high Commission Court of Yorke was called into the Howse upon Mr Rowse his motion: and being brought to the barre was questioned about Mr Peter Smartes imprisonment being a minister: hee confessed the act, but extenuated it that hee did not know it to bee a false imprisonment.

Sir John Hotham moved that it might bee resolved by the Howse whether wee should accept of the 60,000£ offered from the customers or not viz. 20,000£ within a weeke, then 20,000£ at 15 daies end after that and 20,000£ moore at 15 dayes end after that. Some moved that wee should accept of it others that wee should refuse it, because the customers weere men guiltie of great crimes. I moved that wee weere now in a great strait: necessitie and danger pressing us to borrow; and dishonour dehorting us to borrow of criminall men. But rather then the kingdome and the safetie therof should runn anie hazard I conceived wee might borrow of these men though not *eo nomine* as of Customers. For they had a double capacitie first as men, secondlie as officers. The Jewes whilest they lived heere in England weere of all men most execrated and hated for ther usurie, and yet the Kings of England did often upon urgent occasions borrow of them. Nor did I see why this act of ther lending should putt anie obligation upon us either not to question or to pardon ther crimes. I wished all other wayes and meanes to borrow might bee assaied; but if none could bee found; then to accept ther offer, in which as long as wee gave them securitie and damages I saw nothing for which wee weere beholding to them, seeing wee had but an Oliver for a Rowland.

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[14] Prynne, *A New Discovery of the Prelates Tyranny* (1641), 102-103.

[15] *Ibid.*, 103-107.

[16] *Ibid.*, 92-97.

[1] See C.J. I, 726, 737, 782; L.J. III, 340, 342, 384. The bill passed the Commons and was sent up to the Lords; but there it seems to have died in committee after the second reading.

f. 145a] But then a motion was made to putt offe the further dispute of this matter untill too morrow morning which was well approoved by the Howse for the present. A little after this dispute betweene nine and tenne of the clocke in the morning most of our Howse and divers of the Lordes mett at the conference between the two Howses in the painted chamber, as wee appointed yesterday, in the morning.

First Mr Saint John made an entrance into the said conference,[2] that wee weere come to let ther Lordships know how farre wee had proceeded in the matter of the Shipp-monie, by which the propertie of our goods and libertie of our persons weere not onlie taken away, but our verie lives endangered. And the Judges that should have been the maintainers and upholders of our Lawes became through the brocage and sollicitation of the Lord Finch late Lord Keeper of the great seale of England; the destroiers and subverters of the same: by which wee reduced to a moore servile and deplorable condition the ancient villaines of England, whome ther Lordes could not imprison without a cause shewed. For the Shipp-monie it selfe the Howse of Commons had voted it with all the proceedings therupon to bee illegall without one man contradicting it. In the proceedings therin hee observed fowre stepps or gradations. First the extraiudiciall opinion given by the iudges in private. 2dly, ther subscription to the Kings Letter and the Quaeres in it, affirmativelie answeared by them. 3dly the Shipp-writt. 4, The iudgment in the Exchecquer against Mr Hamden. 1, For the extraiuditiall opinion given by the iudges in ther chambers severallie, it was gotten by the saied Lord Finches procurement in Nov. 1635, and they weere commanded upon ther allegiance to keepe it secrett hee being then Lorde Cheife Justice of the Common pleas. That opinion was generall onlie that wheere the kingdome was concernd in the generall danger, it was likewise concerned in the generall defence. This opinion walked in darkenes for a twelvemonth. And then the saied Lord Finch did in the second place procure a letter from his Majestie to the Judges concerning the same shipp-monie by name; and therin made his Majestie the sole Judge both of the danger and charge. Hee by his sollitacion procured the rest of the Judges to answeare those questions affirmativelie, and to subscribe ther names; promising Mr. Justice Hutton and Mr. Justice Crooke who weere of another opinion that hee would let the King know soe much and upon that ground they for conformitie onlie subscribed ther names. This Letter with all the answeares to it was then read by Mr. Whitlocke. After which Mr. Saint John further shewed that the saied Lord Finch contrarie to his promise did not onlie tell the King that the answeares to that Letter weere the opinion of all the Judges, but alsoe caused the same to bee published as ther united opinion in the starre-chamber and to bee enroled upon Record in all the Courts of Westminster. That by this Letter all power was vested in the King both to impose upon the subject what hee would and as often as hee would, and to enforce the refractorie how hee would: soe as by this extraiudiciall iudgment our properties liberties lives and all weere given away at a blow. Then hee came in the 3d place to speake of the Shipp-writt it selfe, and shewed that by it not onlie distresses but imprisonment of mens persons alsoe weere commanded to levie the saied monie: and this power of imprisonment not onlie given to the King himselfe but to all the sheriffs of England. 4thly hee dilated the iudgment given against Mr. Hamden in the Exchecquer at large upon his deniall to pay about XXs. rated upon him and how the Judges had therin gone against the law and ther oaths.

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[2] St. John's speech was printed at the time [E. 196 (I)] as of Jan. 7. It is to be found as a separate in many places and was published by Rushworth (III, App. 248-265) and by Nalson (I, 705-719), etc. The accusation and impeachment of Finch is to be found in *S. and P.* 76-82; Rushworth, IV, 136-138; Nalson, I, 722-725.

f. 146a] Hee then proceeded and shewed that the Howse of Commons had by one united vote *nullo contradicente* resolved the saied extraiudiciall opinion given in private, the saied extraiuditiall iudgment or answeare given upon the Kings letters; the saied shipp-writt it selfe, and the saied iudgment given in the Exchecquer against Mr. Hamden weere all against law, against the libertie and propertie of the subject against former iudgments in Parliament and against the Petition of right. Then hee shewed that a former Commission for a loane which was declared illegall in the petition of right; and another Commission for an excize to bee sett afoote, which was cancelled by the King, and brought soe cancelled by the Lord Keeper Coventrie into the Upper Howse in the Parliament a°. 3°. Caroli, and soe sent downe cancelled to the Howse of Commons to veiw and peruse, had the same clauses and pretences of the dangers of the kingdome and the necessitie of defence as the shipp-writt had. A 3d particular hee shewed that in the petition of right, the Lordes would have a clause added for the saving of the Kings prerogative, which the Commons refused, and upon Conference perswaded the Lordes to leave it out accordinglie. Most of this hee had divers dayes before spoaken in the Howse of Commons. Then hee added some presidents out of recorde touching iudgment given upon severall Judges for lesse crimes then this. For the iudges heere in this case of shipp-monie weere onlie guiltie of the misleading of the King, who desired to have them iudge according to ther conscience. Sir Thomas de Wayland a°. 18°. E. 1, for giving a false iudgment but in a private cause was banished the realme and forfeited his lands and goods.[3] One Thorpe alsoe for receiving some bribes in E. 3 time amounting in all to about an hundred pounds, was sentenced to bee hanged and to forfeit his goods and chattels.[4] And in the last place hee insisted long upon the proceedings against Sir [*blank*] Tresilian and other Judges a°. 11 mo. R. 2.[5] as Traitors for giving ther opinions against the libertie of the subject, and shewed that though the same iudgment weere reversed a°. 21°. R. 2.[6] yet that Parliament was noe free assemblie; and it was likewise reversed a°. 1°. H. 4.[7]

Then the Lord Falkland a member of the Howse of Commons made a shorte introduction to the reading of the Articles of impeachment of the Lord Finch of Fordwich of high Treason. Then Mr. Hide read the same Articles. And lastlie the same Lorde Falkland spake[8] after the reading of them, touching the saied Lorde Finch and the greatnes of his offences. And soe the conference after it had held and continued above two houres ended betweene eleven and twelve.

Which being done most of the members of the Howse of Commons returned into the same Howse, and fell into the dispute againe what course wee should take to raise the 60,000£ spoaken offe in the morning. They fell from borrowing of it, from the customers, and pitched upon a way that some members of the Howse should ingage themselves for it: to which purpose Mr. Hollis was speaking when I came into the Howse. And soe after a motion or two moore to the same effect the Howse rose.[9]

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[3] Nalson (I, 713) has a fuller statement.

[4] See *D.N.B.*

[5] *Rot. Parl.* III, 229, 230, 237.

[6] *Rot. Parl.* III, 411.

[7] *Rot. Parl.* III, 425.

[8] *S. and P.* 83-87. See May's comment in his *History of the Parliament of England which began Nov. 3, 1640* (1812), 58.

[9] "A great Debate was had, whether the money to bee borrowed for the supply of the Kings Army and the Northerne parts, should bee had of the Customers or noe, for that they now lay under severall charges before this house, and were men obnoxious to the state in their places ect. and the house was enclined negatively; butt ordered the reassuming of that businesse next day." Peyton, f. 67.

"Divers Gentlemen of the House did move, that the Knights and Burgesses of every County and Burrough, should provide as much money as one Subsidy amounted unto, which will make up the summ of 60000 pound, and so be not beholding to the Cus-

Post Meridiem.

In the afternoone divers of the Committee touching Bishop Wrenn of which I was mett in the Court of Wards. Ther it was prooved against one William Guest curate of St. Margarets Church in Ipswich, That hee bowed to or towards the Communion table sett alter-waies: and to the sacrament of the Lordes Supper: which hee did consecrate standing with his face to the East and his backe to the people That having read the booke of sportes upon the Lordes day hee left out the 4th commandement a°. Dm̄. 1636, refused such as came not upp to the raile: and forced the chur[10] though hee weere not present with divers other particulars to the like effect.

f. 147a] January 15, Friday, 1640.

After a few motions of little moment, An act for the naturalizing of James Booth[1] Matthew Booth and Susanna Booth was read the 2d time and committed to divers Committees.

An act declaring the ancient and common law of the lande concerning salt marshes inned gained or lost by the sea or ebbing or flowing of fresh-waters.

It was ordered *die veneris sexto Novembris* that if anie mans election should bee questioned, the petition against that partie ought to bee putt in within 14 dayes after the returne of the Indenture.[2] Upon this Sir Hugh Cholmeley moved that Sir Christopher Yelvertone returned for Bosinny in Cornwall was not questioned till 15 dayes after the returne of the indenture; And wheereas hee had sate in the Howse; and it was latelie ordered upon the question that hee should forbeare to sitt till the matter had been heard before the Committee of priviledges, might now bee restored to the Howse againe. Divers spake effectuallie for it, that hee might at least sitt till the question weere determined one way or other. But divers spake against it, and that the last order might stande, and soe at last it was the sence of the Howse that the saied last order should stande and hee forbeare comming into the Howse till thursday next weere past when the Committee of priviledges had appointed to heare the cause.[3]

Mr. Pymme moved that it was conceived the Earle of Straffords Councell did purpose [to] demurre to the generalitie of our charge against him:

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tomers, whom they think they shall finde to be Delinquents, and then they will deal with them accordingly: Some of the Customers are found to owe to the King 28000 pound and more." *D.O.* 19-20.

At last there were in the House some willing to protest against the use of "tainted" money. It will be recalled that upon the offer of financial aid from Harrison, the monopolist, he had been not only restored to his seat in the House but put upon the committee for supply.

[10] Evidently D'Ewes started to say one thing and ended with another.

[1] Boeve. C.J. II, 68.

[2] *Cf.* C.J. II, 21.

[3] See *M. of P.* I, 486, n. 7.

and therfore hee thought it necessarie to have particular articles framed against him which would bee readie by monday next:[4] and the Howse allowed the motion: and it was ordered accordinglie, That they should desire the depositions that weere yet sealed upp, viz. the former Committee appointed to draw upp the charge against the Earle of Strafford and that they might out of them draw upp particular instances or otherwaies as they shall thinke fitt against the saied Earle, and to present them to this Howse on monday next as they shall thinke fitt.

Then wee fell againe upon the fatall discourse of ingaging manye members of our Howse either to lend or borrow severall sommes to make upp the same somme. Divers offered voluntarilie some to lend and some to become bound, and divers opposed and disliked this way. Some alsoe would have had the Counties called over in an Alphabeticall order, soe as men must have been enforced to have made some answeare; but I stood upp and crossed that saiing, That I had resolved to have been silent at this time, had I not been called upp at the present to discharge my conscience. For hearing divers to call and speake to have the Counties names read alphabeticallie, I was enforced to let them know, that if such a way weere pursued to putt as it weere a necessitie and enforcement on men to lend or ingage themselves, noe age noe time nor noe president could either warrant or pararell it, our verie voluntarie ingaging our selves was too low a degree for the Howse of Commons to enter upon; which would perhaps enforce many of us to goe from Scrivener to scrivener to borrow monie. I understood the farmors of the customes would but have borrowed the monie they intended to lend us; and I wished those worthie Aldermen of our Howse would move the marchants or Court of Aldermen to doe the same. Ther credit would serve and ther securitie was unquestionable; or if they desired further securitie such of the Howse as offered to bee bound at first might undertake it still.

f. 148a] Soe the naming of the Counties in an alphabeticall order was omitted: and divers proceeded to offer voluntarilie what they would lend or bee ingaged for till the summe amounted to above 40,000£ and then it was ordered that a Letter should alsoe bee sent to the Lord Mayor to see what monie could bee raised in the Cittie, from the Speaker.[5] And some members weere appointed by the Howse to veiw the same.[6]

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[4] "Mr. Pimme reported from the Committee for my Lord Strafforde; That because they did heare my Lord Strafford had a purpose to Demurre unto the generalitie of his charge; They desired the advice of this house, whether to prevent that; they were nott better proceed to presse the evidence of the particulars; Then admitt the other way; which though it might well bee maintained by them with honour and reputation to the wisedome of this house, yett such proceedings will breed great protractions of time in the severall Arguments to bee made therein on both sides." Peyton, f. 67.

[5] "New Debate was had, how to raise this money and nott borrow it of the Customers. Whereupon it was mooved, That the knights and Burgesses of the severall Counties, should procure in their personall capacities soe muche money, as their Countyes were charged in the subsidy to deposite in their owne names only. Mooved

Post Meridiem.

In the afternoone divers of the Committee in Dr. Bastwicks busines of which I was sate in the Starre-chamber. Ther it was prooved concerning the suite against him in the Starre-chamber wheere wee last left, viz. That hee drew his answeare himselfe and then carried or sent it to counsell to signe; which they refusing hee sett his owne to it; and soe tendred it in Court. And yet this answeare was not onlie refused but hee condemned as *pro confesso* and not answearing and soe had a most heavie censure imposed upon him, of which the sentence was read; being given against him June 14, 1637, a°. 13°. Caroli,[7] which was that hee should pay 5000£ fine, bee sett on the pillorie and loose both his eares, and bee sent close prisoner to the Castle of Lancestone in Cornewall. After this parte of the saied sentence was with great crueltie exercised, in Westminster hall yarde the last day of the same June: wheere hee stood about two howres in the pillorie and then lost both his eares. After which hee was sent away to the saied castle goale before his soares weere hole, and ther lodged in a ruinous place and in October following about the beginning of it was by an extraiudiciall warrant sent close prisoner to the Isle of Syllie in the castle ther; wheere hee remained above 3 yeares close prisoner. Soe wee cleared his innocencie by severall votes upon severall questions and that hee had suffered uniustlie and against law, both in the high Commission Court and starrechamber.

January 16, Saturday, 1640.

After some few motions of little moment: a petition was read preferred in the name of some fowrescore ministers of Suffolke in which they complained of the burthens and superstitions brought in by Bishop Wrenne and still continued. They humblie alsoe offered to the consideration of the Howse the reformation of the Common Prayer booke, and diminution of ceremonies with other particulars to the same effect. Then after this it was agreed to send upp to the Lordes that the Committee appointed by

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alsoe by severall particulars to deposite some 500£, others 1000£, others lesse; and to bee meerely substantive offers without relation to others. Mooved alsoe that Mr. Speaker should write a letter to the Lord Maior, to call a Hall to find the inclination of the citty; who perhaps conceiving prejudiciously of the Customers, would be willing to take them off from ingratiating themselves among those of whom they had deserved butt ill: and therfore might bee mooved to putt by the Customers and ingratiate themselves, and their owne causes, over and above the Justice of thers had done: and to this the house adhered, and till another day, after signification from the citty, was this businesse putt off agen." Peyton, ff. 67-68.

"Friday, was spent in the setting a course of the sudden providing of 60000£ for the Kings Army; ther's some hopes of having it from the City, an answer will be given to morrow: If the City fayl, its hoped the money will be provided by the Gentlemen of the House, untill the Subsidies come, and then they are to be paid, with damage for the forbearance." *D.O.* 20.

[6] Sir John Colepeper, Mr. Hampden, Mr. Pym. C.J. II, 68.

[7] See Rushworth, II, 382.

this Howse to draw upp the charge against the Earle of Strafford might have the depositions or examinations taken in the Earle of Straffords case which weere sealed upp; and that they might peruse them; and according to the reservation in the end of the articles by which wee charged or impeached him of high Treason: that out of them such particularities might bee drawen as might make the proceedings moore certaine and moore safe; which course did well stand with the ancient usages of Parliamentarie proceedings. The Lordes being not yet sett the message was awhile deferred. And MR. ROWSE made a reporte from the Committee appointed to consider the complaints and petitions of oppressed and wronged ministers; of one Mr. Foxley[1] sent for and imprisoned by a warrant under the hand of Sir John Lambe and two other high Commissioners; and his studie searched and his bookes and papers taken away. And that after by a warrant under the hand of the Archbishop of Canterburie and divers other privie Councellors (who weere alsoe high Commissioners) hee was committed close prisoner to the gatehowse without anie cause shewed. Soe it was voted by the Howse as it had been at the Committee, that as well the f. 149a] saied proceedings upon Sir John Lambs warrant weere illegall and that the saied Mr. Foxley ought to have reparation for his damages, which was putt in two questions; and that the close imprisonment of the saied Mr. Foxley by the warrant of the saied privie Councellors was against law and void; which was putt in a thirde question.

Then the Lordes being come into the Upper Howse Mr. Pymme was named to goe upp with the saied message[2] before appointed and I followed him, and was present at his deliverie of it. Sir Edward Littleton knight Lord Cheife Justice of the Common pleas still suppliing the place of Lord Keeper came downe to the raile and tooke the message of him. Soe wee departed and I returned presentlie to the Howse of Commons: wheere they weere disputing touching bailing of them that weere under the Serjeants custodie, some weere of opinion that all should bee bailed, others would onlie have some bailed; and at last a Committee to consider of the persons in the Serjeants custodie was appointed;[3] and to present to the Howse who weere fitt to bee bailed and who weere not bailable. Then MR. PYMME being a little before returned from the performing the message aforesaied, reported that the Lordes had sent him worde they would send us an answeare by messengers of ther owne. Then MR. TREASUROUR made reporte of our conference by a Committee of both Howses with the Lordes on Tuesday morning the 12th day of this instant Januarie: much to the effect ther sett downe by mee. Therupon followed some dispute that wee should take some time to consider of this great and waigtie affaire; and soe to fall upon the treatie of it. Divers daies weere named and at last; tuesday next was resolved on for the day to debate this busines. For the Scotts seemed to demand of us by the first bill of ther charges 514128£ 9s, 0, and weere content themselves to beare 271500£, 0, 0, which was the summe of ther last bill of charges and these weere given in at the saied conference betweene the saied Lordes Commissioners on the 7 day of this instant Januarie.[4]

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[1] *Cal. St. P. Dom. 1639*, 97, 115, 120, 263, 469; *1639-1640*, 65; *1640*, 398; *1640-1641*, 379.

[2] For this message see L.J. IV, 133.

[3] See C.J. II, 69.

Then wee fell upon a new debate touching the raising and lending of monie by the members of this Howse; and some moore was promised: but it was urged that none would bee willing to pay till the bill of subsidie weere past, that monie they purposed to bring in.

Then it lastlie moved that the true state of the Kings armie might bee represented to the Howse because it was reported it much decreased and was verie weake; and soe it was ordered the Committee formerlie appointed in that busines[5] should consider of it and represent it to the Howse.

Whilest the note of the Scotts expences was reading which is above mentioned by the Clarke (for hee read all those papers which the three Lordes had read on tuesday morning Jan. 12 foregoing a message or rather an answeare was sent from the Lordes to us by Sir John Bankes the Kings atturney and Mr. Serjeant Glanvill. The Clarke superseded his reading; and they being come upp neare the Table Mr. Attourney saied the Lordes had considered of our message, and that the saied depositions against the saied Earle of Strafford should bee delivered to the Committee of this Howse to make such use of them as was desired when they pleased. And soe after they weere withdrawen the Clarke finished the reading of the saied paper, of the Scotts accounts and Mr. Treasurour finished his reporte as is above expressed.

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[4] D'Ewes is writing from memory here, putting in things as they are suggested by later happenings which required explanation. Peyton makes it clear that, as part of Vane's report, the "note of the Scotts expenses" or "breviate" was read, and then the debate followed.

"To particularize which a Breviatte was read of all their charge which in Totall amounted to 514428£: 09s: Another Breviate of 271000£: was read whiche was nott demanded. And to deliver their Intentions clerely of the firste as it was demanded, They did nott expect a Totall reperation, butt suche a considerable satisfaction as they might beare the remnant, ect.

"Sir John Culpeper mooved, That because wee had only a narrative from the Lords of the disposition of the Treaty, and nott their conclusion; hee thought it nott fitt for us to enter into the debate of the businesse, till the Lords have brought it to a point, ect.

"Mr. Pymme said: wee were the more beholding to the Lords for offering us only a narrative, without any conclusion, for that would seeme to have trenched upon the priviledges of this house, where all supplyes and considerations of raysing moneyes are first propounded and agitated, ect.

"Sir Ralph Hopton. That every particular article is agreed on *pro tempore,* supposing there will bee an agreement of all; when, only, they receive their perfect and full conclusion." Peyton, f. 68.

[5] "Last appointed for the King's army" (C.J. II, 69), that is, the committee of January 11.

f. 150a]

Post Meridiem.

I was at the Grand Committee for religion in the Howse. Ther it was prooved against one Mr. Wright vicar of Witham in the Countie of Essex,[6] that hee was given to dalliance and incontinencie with his owne maidservants. That hee was an ordinarie drunkard; yea had made himselfe drunke on the Lordes day with the verie wine that left at the communion, and after hee himselfe had that day received the sacrament. That hee was a common swearer, and speaker of obscenitie. That hee was full of superstitious and idolatrous observations: bowing towards or to the communion table: and to the elements in the Lordes supper after consecration; which hee did alsoe elevate: and that hee had saied; That hee did conceive that ther was moore then a sacramentall presence of Christs bodie ther.

Jan. 18, Monday, 1640.

The subsidie bill was read the thirde time which tooke upp the greater parte of the morning. I came late to the Howse. A little after my comming when the Clarkes assistant who was reading the bill came to that clause wheere two and thirtie members of this Howse weere named to issue out the overplus with the sixteene Lords Commissioners the name of Edward Lorde Gray[1] of Ruthin was left out. It was moved that it might bee putt in againe as it was at first. Soe after the bill was read thorough the Speaker then acquainted us; that after the Lorde Ruthins name had been putt in, in a full Howse, when it came to bee read over and ther being then not above fiftie in the Howse, a member did move his name might bee left out because the title was in question in the Upper Howse; betweene himselfe being now sonne and heire of the Earle of Kent being heire male of that familie, and Mr. Longville being sonne and heire to the sister of Henry Gray last Earle of Kent. And upon that motion his name was putt out and another putt in. Soe then divers spake to have his name added againe. I moved that his name might bee put in; for though ther weere now a question concerning it in the Upper Howse yet I did conceive the iudgment would goe as it had done formerlie. For ther was noe mans right soe cleare but a question might bee moved of it. This was noe new case in the Earledome of Kent but it had once gone thus before to the heire male from the heire female. Soe as though ther might bee some question in it, in respect of the rules of Common law; yet in respect of the Pariall law by which as it appeares in Rot. Parl. de a^{o}. 11mo. R. 2, n^{o}. 7^{o},[2] the Lordes doe usually adiudge such cases, the case was verie cleare. And wheereas it is alledged that the case is in dispute in the Upper Howse, therfore this Lordes name being once putt in, let us not now leave it out, least wee should therbie anticipate the iudgment of the Lordes, and foreiudg this Lorde in his right and title, as if wee in our opinions weere against him. Soe it was soon after putt to the question: and allowed that the name of Sir Nevill Poole should bee putt out and the name of the saied Edward Lord Gray of Ruthin putt in. Then weere divers other alterations of daies made and divers things added and expunged: all which was done at the table in the veiw of the Howse and Speaker; and all wordes new putt in weere read three times by the Clarkes assistant. And the Bill being rouled upp and the Speaker holding it in his hand put the Question whether it should now passe upon the thirde reading; and all or most of us cried I.

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[6] Francis Wright. See C.J. III, 32; L.J. VI, 21, 24; John White, *First Century of Scandalous, Malignant Priests* (1643), 26. Wright had his living taken from him in April, 1643.

[1] Henry, not Edward, Lord Gray. C.J. II, 69; *Stat. of the Realm,* V, 78.

[2] *Rot. Parl.* III, 236.

f. 151a] Post Meridiem

Being ill of an extreame colde I repaired to none of those speciall committees I was of, but a little while at the Grand Committee for Religion.[3]

It was upon the question voted at the grand Committee of this Howse for religion, that the subscription required of graduates in Cambridg when they tooke ther degrees was an innovation against law. This passed after Doctor Houlesworth the vice-chancellour of that Universitie had been first called in and spoaken withall.

January 19, Tuesday, 1640.

An act against the transportation of woolls and woollfels etc. was read the first time.

Then Mr. Perd made reporte from the Committee appointed to consider what persons now in the Serjeant custodie weere baileable and what not.[1] And soe the Speaker asked the opinion of the Howse touching each. 1, It was resolved that Dr. Cousens should bee bailed upon verie good baile. 2, That Dr. Uty should bee bailed upon good baile.[2] 3, That John Gawen might bee bailed. 4, That Ralfe Your might bee bailed. 5, Doctor Layfeild might bee bailed upon spetiall baile and great summs. (as Gawen and Yore weere to bee bailed upon ordinarie baile.) 6, It was resolved upon question that Alderman Able should not bee bailed.[3] 7, It was resolved that Mr. Wilson and Mr. Conradie should bee bailed upon spetiall and great baile. 8, It was resolved upon question that Thomas Horth a notable proiector should bee bailed notwithstanding upon great and spetiall baile. 9, When the question came to bee putt of George Kilvert ther weere divers spake against him as others had done against Alderman Able; and soe the Howse desired the saied Kilvert might bee presentlie sent for.[4] 10, For Mr. Fulham it was resolved hee should bee bailed upon small baile. 11, For Mr. Ancton, it was resolved hee should bee bailed upon spetiall great baile.

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[3] This sentence about D'Ewes's ill health he has put in cipher.

[1] This committee had been appointed the previous Saturday. C.J. II, 69. A previous effort to release on bail those in the custody of the sergeant had been made early in December (C.J. II, 43, 44), when the sergeant was given leave to bail Cosin, Abell, Wilson, Conradus, Horth, and Kilvert, who are again under consideration on January 19. Evidently they had not taken advantage of the previous offer. The offer to bail must mean that their cases were not to be taken up soon; it looks as if this were another effort, as the reduction of committees, to lessen the work of the House.

[2] "Mr. Pym mooved for Dr. Udy: who nott being able to procure bayle, and being at great charge in the Serjants hands desired hee might bee committed to prison where hee could bee cheaper." Peyton, f. 69.

[3] John Turbervill encloses in a letter to John Willoughby on Jan. 9 some verses current about Abell. *Trevelyan Papers, Part III* (*Camden Soc.*, 1872), 202-204.

Mr. Purferey delivered in a petition about the undue election of the knights for Warwickshire, from divers freeholders of that shire, but the petition was not read.

Mr. Hide moved that hee was appointed by the Committee that was to draw upp the charge against the Judges to move the Howse that if anie members of this Howse could enforme the saied Committee of anie particulars conducing to that end and purpose they would make intimation therof this afternoone.

Mr. Prideaux made reporte from the Committee touching Annuall Parliaments[5] that they had now altered divers clauses in the saied Bill and the title it selfe: they had not destroied the old lawes of 4°. E. 3, and 36°. E. 3,[6] but onlie provided that in case a Parliament weere not held according to those lawes nor assembled one everie three yeares;[7] that then elections of Knights citizens and burgesses should bee made without the Kings writt: and ther weere many other provisions and cautions moore added then had been expressed in the other bill, formerlie read and committed. It was intitled, An act for the prevention of the mischeifes and inconveniences that have happened by the intermission of Parliaments or to that effect.

Then weere all the additions and amendments which the Committee had added to the saied bill read twice by the Clarke, Mr. Prideaux that made the reporte standing by the table with his hatt offe to direct the saied Clarke in reading them.

Then the Lord Digby[8] spake in commendation of the saied bill; and f. 152a] shewed at large the extreame calamities and miseries this kingdome had latelie and yet did still groane under for want of Parliaments for divers yeares past.

Mr. Harbert, the Kings Sollicitor spake against the saied Bill as that which tooke from the King one of the supreame prerogatives of his crowne which was to call Parliaments.[9]

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[4] About the history of the Kilvert case see *Cal. St. P. Dom. 1640-1641*, 289-290.

[5] "Mr. Prideaux, That it was the cleere right of the Subject to have parliaments every yeere." Peyton, f. 69.

[6] 4 E. 3. c. 14 (*Stat. of the Realm*, I, 265); 36 E. 3. stat. I. c. 10 (*Stat. of the Realm*, I, 374).

[7] See above, p. 188, n. 5.

[8] For Lord Digby's speech, see *S. and P.* 12-21.

[9] "Mr. Sollicitor. Though the king hath often parted with some part of the preroga-

And afterwards divers spake[10] some to have the saied additions and amendments putt to the question and passed presentlie; others[11] wished to have them further disputed in a grand Committee of the whole Howse: and others who at last prevailed moved that it might bee debated presentlie in a grand Committee of the whole Howse. Soe it being putt to the question it was over ruled. And the Speaker left the chaire and the Serjeant removed the mace, and Mr. Prideaux came into the Clarkes chaire. It was then betweene twelve and one of the clocke.

The saied Mr. Prideaux being sett, the saied bill with all the amendments and alterations therin was distinctlie read over; and a number of objections and doubts moved against it; which when they could not bee satisfied with reason, they weere allowed upon the Question by the multitude of voices.[12] I was absent about an howre during the saied debate. At last when all was ended the Speaker againe resumed his chaire the mace was laied on the table and Mr. Prideaux againe left the Clarkes chaire. Then divers spake against the saied bill or act: espetiallie Sir Henry Anderson one of the Burgesses of Newcastle and my selfe. I moved that I had been silent all the day (it was at the time I spake about fowre of the

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tive for the good of the subject, yett hee thought this point of passing this bill soe generally concerning, that hee desired great consideration might bee had thereof." Peyton, f. 69.

[10] "Mr. Pym. That there are noe remedies for many things butt by Parliament. It was noe matter of prerogative for the people to come and prefere their petition to the king and desire good Lawes; and this is the peoples right. The kings legislative power that is annexed to the Lawes, is nott only of grace, butt directed by Lawe, and the king takes an oathe to observe his Lawes." *Ibid.*

[11] "Lord Falkland. Because the passing of this Bill of Trienniall Parliaments was of soe great importance, hee desired it might bee committed to a Grand Committee of the house which was done presently and Mr. Prideaux in the chaire." *Ibid.*

[12] "Att the Committee

"Mr. Selden. That all the officers in Parliament ever were constituted under the great Seale. The Judges alsoe are called by writt *ut intersitis de Consilio ect.* in the upper house.

"Mr. Pym said The Clerke was usually chosen by Parliament in former times. Sergeant is an Ensigne of honour, with which the king hath beene pleased to grace the Parliament. Never before Queen Elizabeths time was it knowne that the Speaker was chosen by Commission; which was never done butt twice. It is a new doctrine, that wee can doe nothing without a Speaker, or the Mace.

"*Id.* It is a service for Counties and Borroughs that have used it of ancient right to send Knights and Burgesses to the Parliament and they shall bee fined if they doe nott: Butt the universities and many other places have it of new grant, and therefore lett them have a care whether they will send or noe, and lett noe penalty bee laide upon their default, butt lett them looke to their owne priviledges.

"Mr. Vaughan. If there bee noe person to returne the writtes what shall become of the members of the Parliament.

"Lord Falkland. The Sheriffs returne is accepted usually before the freeholders and is good, till it bee voided by the other part, ect.

"Sir Walter Earle. That the Oathes of Alleagiance and Supremacy taken by all returned to the Parliament is butt of late yeeres, since the memory of some of us here.

"In Conclusion the Bill was putt to the Question, and the yeas were many: The Noes were nott many." Peyton, f. 70.

clocke in the afternoone[13]) hoping to have received some satisfaction from the agitation of the saied bill, but could find none. That old verse found in the ancient Record of the Blacke booke of the Kings householde *Libera gens et libera mens et libera lingua,* did admonish mee of the freedome of speech incident to the members of this Howse which our Speaker had awhile since soe solemlie demanded. And yet had I not laied downe all feare and favour at the Howse doore, when I came last in, I would bee loath to speake in this particular; to displease the good or differ from the wise, but the rule of the conscience is that wee must bee guided by heere: for I finde not one but many obstacles.

f. 153a] January 20, Wednesday, 1640.

After some shorte agitations of little moment MR. WHITE made report that the grand Committee for religion had voted upon the question that the statute made in the universitie of Cambridge about 27 yeares since, by which yong students are compelled to subscribe to the Canons of the yeare 1603,[1] is against the law and libertie of the subject.

Then was the bill for the prevention of the inconveniences that have come by the infrequencie of Parliaments being engrost in parchment read the thirde time, and the Speaker holding it in his hande and reading the title of it did put it to the question whether it should passe for a law or not, and soe it passed.[2] And then the same bill was sent upp with the subsidie by the Lorde Digbie.

Then a petition was preferred by the high sheriffe of the Countie of Carnarvan[3] who was sent for as a delinquent about the late election of the Knight of the shire ther and remained in the Serjeants hande that hee might goe upon baile, which was granted and the matter was referred to the Committee for Sir Lewes Dives busines.

Then SIR JOHN HOTHAM made a report from the Committee touching the Kings armie and the Northren Counties and of the great distresse the Kings armie was in.[4] And then followed new disputes about the 60,000£

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[13] *Cf. D.O.* 20. "A Bill for Tryeniall Parliaments was read, and debated upon, which businesse held the House till four of the clock in the afternoon."

[1] J. B. Mullinger, *The University of Cambridge* (1884), II, 458. *Cf. Cal. St. P. Dom. 1611-1618,* 411.

[2] "The house was all Affirmative." Peyton, f. 71.

[3] Mr. Brinker. C.J. II, 70.

[4] "Sir John Hotham reports concerning the Army viz: That 28 9ber [November] 17503 men were mustered: and from the 16 of November to the 28 the parliament did take care for the payment thereof and soe continues. And that payment should bee made of runn-awaies debts, soe that they did appeare to bee really true.

"That the Committee thought it convenient a Commission of Oyer and Terminer should bee sent downe to the officers of the Field and some Gentlemen of the Countrie, to keepe the souldiers in better obedience.

"Alsoe That the Speaker should send letters to all the Justices and Maiors of that County to lett them know that the Parliament will take present care for the Army and in very little time send moneyes to pay it." Peyton, f. 71.

that was to bee raised for the releife of the same armie and Counties. Alderman Pennington shewed that the cittie had provided it readie. Wheereupon some members of the Howse that had offered to bring in divers summs of monie before onlie to prevent our borrowing of the customers, now that the saied 60,000£ was otherwise provided, declared that they tooke themselves to bee disingaged from that offer.

From the busines of the Kings armie and the Northren Counties wee fell to dispute the necessities of the navie; and Sir Henrie Fane the yonger being one of the Treasurours of the saied navie, shewed that it was almost whollie unfurnished, and should have been provided for at least two months since if they had not wanted monies.

Then wee returned to the dispute of the Northren armie and Counties: and it was found that Nov. 28, last past his Maiesties saied armie consisted of 17553 men, and that soe manye weere to bee paied till that day: that such of them as are gone indetted to the cuntrie, that ought to bee discharged.[5] And it was resolved upon the question that the same armie should bee paied according to the number of 17553 men from the 10th day of Nov. last to the 8 day of December next ensuing. Secondly it was resolved that a new muster roule should bee made from the saied 8th day of December, and that the armie should bee paied according to the foote of the same muster roule, till a new muster bee taken.[6] Then grew some dispute how the cuntrie should bee satisfied for those commodities with which they had furnished the souldiers upon trust; and it was thought best to pay the monies to the captaines, and they at ther perills to discharge the monies due to the Cuntrie from the souldiers of ther companies: others would have it disposed by the colonels; and the Speaker was about putting the Question. I moved that wee might decline this question, as a matter which did not properlie fall within our determination or dispute, wee had given a great summee to bee distributed and proportioned by us for the maintenance of the Kings armie and the releife of the Northren Counties. And this is the great worke wee have now in hande to make a proportionable division of the 60,000£ that is presentlie to bee sent away for the same uses and purposes. For I had observed that if wee did but vote too great f. 154a] a proportion to bee sent to the Kings armie wee had presentlie alarums of the Scottish armie being in want and discontent. If againe on the other side wee did but let the ballance goe downe too heavie in our releiving the Northren Counties, then wee had presentlie informations and messages touching the distresse of the Kings armie and that it was readie to disband. That wee might therfore avoid both these rocks and new alarums wee weere in the first place to looke to the division of the 60,000£ now to bee sent that wee might as neare as possible wee could give content to both parties. And as for the distribution of the saied monies by the colonels or the captaines it was a matter extraiudiciall to us, and unworthie our further dispute. I wished that point might bee againe referred to the same Committee and they to advize which was the best way, and to commend the care and execution therof to the Earle of Northumberland Lord Generall, which advice was followed by the Howse though others spake against it. Then wee came to debate another question whether a Commission of oier and terminer should not to goe downe to the Kings armie speedilie for the punishment of offenders. Some mooved to have divers cuntrie gentlemen putt into the saied Commission as well as officers of the Kings armie and others doubted whether the armie would bee iudged by the Imperiall law. I moved, That either some eminent Serjeant at law might bee named to goe downe with the saied Commission as iudge, or some Common Lawyers in the cuntrie ther might bee putt into it. That the armie was ordinarilie governed by the rules of the Imperiall law was plaine: but it was likewise as cleare that if a Commission of oier and terminer went downe, the proceedings upon it must bee meerelie and wholly according to the rules of the common law. Soe it was resolved upon the question that a Commission of oier and terminer should goe down and it was soe ordered:[7] and the Howse rose a little after between twelve and one of the clocke.

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[5] D'Ewes here is evidently giving a summary of Hotham's report. He differs from Peyton as to the number of men.

[6] *Cf.* C.J. II, 70.

Post Meridiem.

Divers of the Committee touching Bishop Wrenne sate of which I was in the afternoone in the Court of Wardes, wheere one Mr. Skinner parson of Wolverstone in the Countie of Suffolke that had been accused of many enormous crimes which had been prooved against him, brought in witnesses for the iustification of himselfe: but the negative proofes hee made, weere verie slight and insufficient.

January 21 Thursday.

After some agitations of little moment[1] Mr. Perd made report from the Committee touching Monopolies of divers members of the Howse whome they had voted to bee proiectors and Monopolizers and soe not fitt to sitt in the Howse heere. First Mr. William Sandes being a Monopolizer touching sea-coale. The next Sir John Jacob being a Monopolizer for tabaccoe in which the Lord Goring had a share. The thirde Mr. Thomas Webbe a

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[7] That the Commission of Oyer and Terminer shall extend only to the King's Army in pay. C.J. II, 70.

[1] "A Petition was delivered against passing of Bills of Naturalization of Merchants ect. which did prejudice the subject, for by that meanes those that are Naturalizd have the liberty of subjects here, and alsoe still retaine their liberties of their native Country there alsoe." Peyton, f. 71.

Monopolizer for bone-lace.[2] And fowrthlie Mr. Edmond Windham for soape and some other particulars. Soe the Speaker putt the Question of everie one of these in particular and it was resolved therupon and soe ordered: That each of them weere Monopolizers uncapable to sitt in the Howse, and that a new writt should goe out for a new election to each of those burroughs for which they served.

It was complained in the Howse that ther had been taken from Thomas Cowper a Stationer 850 Bibles, 750 Psalme-bookes and 2000 praier bookes which had been brought out of the Low-Cuntries, and they now remained in Registers custodie of the high Commission Court. Soe it was ordered that a warrant should bee sent from our Speaker to the saied Register to deliver all the saied bookes to the saied Thomas Cowper.[3]

f. 155a] Then the Howse fell into the dispute of the demand of the Scotts for some satisfaction and reparation of ther damages. Sir Beniamin Ruddier beganne and moved that wee might soe give as that wee might preserve the honour of his Maiestie and the English nation.[4] Others spake after sundrie waies. Mr. Maynard would have had it referred againe to the Lordes Commissioners. Mr. Rigbie thought wee weere not yet fitt for the quantum what wee should allow them: and therfore to deferre the dispute of it to another time.[5] I moved that wee should neither referre the dispute of this backe againe to the Lordes Commissioners, nor put offe our dispute of the quantum how much wee should allow till another time. For this was the day, the time and τὸ ’νυὸ [τὸ νῦν] the verie instant in which wee weere to dispute not onlie the ὅτι that wee should doe somewhat, but the δι ’ὅτι the reason why wee should doe somewhat. For if the question weere singlie whether wee should give or not give, it weere easie to resolve on the negative. But wee must consider that Honour and Honour[6] weere not only in the ballance each against other, but our safetie and peace weere to bee added to the one side alsoe which would fullie waigh down the skales. For the matter of giving or allowance, it was that which wee had many examples to lead us unto. For in France itselfe within these sixtie yeares (which is the greatest Monarchie of Europe in respect it lies together) the Kings ther upon the like pacifications with ther subjects had allowed them large and vast summs for reparation of ther losses. And Henrie the Great ther, did not onlie satisfie the armie in generall that opposed him but allowed divers particular great summs besides considerable commands to Mayen, Guize, Mercueur and divers other noble personages. For the condition of matters did now soe stand as wee weere to choose one thing of three. For either wee must let the treatie of peace continue and pay the two armies for manye months, or else to fall anew upon the late intestine broiles the worst evill of all evills; or else wee must in the thirde place make some satisfaction of the losses and charges of the Scotts which necessitie enforceth them to require. For the first wee saw the vast charge wee weere now at, and the longer it continued the lesse able wee should bee to satisfie what is demanded, which perhaps alsoe in processe of time might encrease to a greater proportion. For the second particular of returning to a destructive and calamitous warre if the last two yeares experience had not yet taught us enough at home, wee should but cast our eyes upon the desolations of our neighbour Germanie, wheere now after one and twentie yeares of bloudie warre, twentie pitcht battles fought, tenn hundred thousand men women and children destroied by the sworde, the pestilence, by fire and by famine, it did now remaine such a mapp and platform of miserie and horrour as neither former ages of old time nor latter examples, noe not the destruction of Jerusalem it selfe could patterne it. And Tacitus himselfe, observes that the Romane Empire was moore shattered and shaken by those few months of civill warrs betweene Otho, Vitellius and Vespasian then by all the incursions of the Goths and Vandals.[7] For in this latter devastation, the Capitoll it selfe with all the Romane statues and ancient monuments perished by fire; which had been preserved in the former invasions and depradations. It cannot bee denied but that the f. 156a] motion which was made for the reenforcing of the Kings armie, weere necessarie if it weere seasonable. But now when all matters are drawing on to pacification, and our hearts are full with the hopes of a long and lasting peace; if now wee shall goe about to add new forces to the old, it may not onlie breede iealousie in the other armie, but perhaps interrupt the Treatie it selfe. I therfore advized that wee should fall readilie and cheerefullie upon the third way and that was to consider of the Scottish demands, that wee might as freinds and brethren to them support a parte of ther charges and losses. And to that end I wished that the Howse might presentlie bee resolved into a grand Committee, in which wee might fullie debate this great and high point; and in which if anie objections should bee made against what I had now saied I might with the like freedome answeare them as they should bee objected.[8]

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[2] "Mr. Tho. Webb, who had the sealing of lace a proiect, by the way, it was reported, That the Nunnes of Douay did Petitione the Archbishop of Canterbury that the proiect of lace might bee laide downe, and that there lace might bee free." Peyton, f. 71.

[3] See *Cal. St. P. Dom. 1640-1641*, 508-509, for warrant issued against Laud in Cowper's case and for Cowper's two petitions.

[4] This is undoubtedly Rudyerd's set speech which Rushworth puts on Feb. 4 (IV, 167-168), and Nalson on Jan. 25 (I, 737-738). *Cf.* also Baillie, I, 290. *S. and P.* (110-112) gives no date whatever.

[5] Somewhere in this discussion probably came Sir John Wray's speech, which is assigned by *S. and P.* (403-404) and by the *Cal. St. P. Dom. 1640-1641* (425-426) to this date.

[6] This is of course a mistake in transcription. Honor and something else were in balance against one another.

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[7] See Histories of Tacitus, Bk. I, cap. 50.

[8] But *cf.* C.J. II, 71.

January 22, Friday 1640.

Mr. George Preston[1] vicar of Rotherthorpe in the Countie of Northampton was brought as a delinquent to the barre. And therfore divers witnesses weere produced against him after his withdrawing: whoe avowed ther accusations. Then was hee called in againe and knewled as before awhile at the barre; but then the Speaker badd him stand upp. And tolde him of his great crimes, in saiing the Parliaments in England never did good nor never would, but that his hoggs weere fitt to make Parliament men of, and ther sty a place fitt for them to sitt in. That such as went from sermon to sermon to sermon weere like iack-dawes that hopt from twigg to twigg; and that they did goe to severall churches to committ whoredome. Hee confessed in generall that manye inconsiderate speeches had slipped from him but would not in particular confes anye of them.
f. 157a] Then the Speaker badd him withdraw againe, and then the Speaker advized that hee might bee sent to the gate-howse during the pleasure of the Howse. And soe it was assented unto by the Howse and the saied Mr. Preston was called in againe, and soe the Speaker pronounced the saied sentence against him.

Then hee being withdrawen againe MR. ROUSE made reporte from the Committee touching Dr. Cousens, what great crimes had bee[n] proved against him in respect of his superstitions idolatries and wicked tenents acted and preached at Durham. That hee had caused above 2000£ to bee expended in adorning unnecessarilie that church and altar. That hee had sett upp many images. That hee used continuall adorations; and drew others to doe it. That hee had [a] multitude of candles on hollie-daies moore then on the Lordes day: and those lighted by two choristers who beginne at the East, and soe goe backwarde till all bee lighted. That new services and at new times weere brought into the church. That hee preached false and popish doctrine in many particulars which hee named, and that hee had persecuted many godlie and honest men. That ther weere copes with severall images on them, and one with the image of God the Father. There was alsoe prooved against him that hee had saied the King was not head of the Church nor had noe moore power in Ecclesiasticall matters then his horse, with many other enormous particulars which hee sett forth at large; and that the Committee had voted against Doctor Cousens by five questions.

SIR HENRY MILDMAY moved that these Images and Idols might bee removed and taken away; and that Commissioners, might bee appointed to see them utterlie taken away. SIR ROGER NORTH seconded that motion: I moved that ther was a great busines appointed for too day and that this dispute did moore properlie appertaine to another time when wee weere to dispute Ecclesiasticall matters yet it was well moved that Commissioners might bee appointed to remove and deface those Images and Idols now sett upp amongst us and I wisht a Committee might bee named to provide a law to abolish all idolatrie. For the image of God the Father it was the onlie unlawfull picture of Statue that could bee made being it is absolutelie prohibited; wheereas the Images of all the heathen gods as they illustrate art and workemanshipp may bee reserved for a civill use. Wee know that for the greater parte ther is nothing but falsitie and adulteration in these images themselves besides the idolatrie committed with them. Nay it is without question that many of the verie Idols now amongst the papists are the verie same that weere ancientlie amongst the Heathens. The image of St. Peter that is placed on the great obeliske at Rome and ther dailie adored by them is the verie same ancient statue of Jupiter that stood in the capitoll which was adored before the times of Christianitie: and it is onlie altered that instead of the Fulmen which Jupiter held in his right hand they have broaken that away, and putt two gilded keyes in leiw therof. Soe for the famous Image of the Virgin Marie at Loretto, it is doubtles an ancient Greeke peice of Venus and Cupid, soe as they now ignorantlie[2] her whome the heathens made almost as infamous for lust as Pan himselfe. I would desire therfore that the Images amongst us in England, which I feare are manye of them of this stampe might not onlie bee removed: but that as Constantine the Emperour, when hee destroied the Heathen Idols, caused the Preists themselves to pull them downe, soe Doctor Cousens might bee enioined to add his helping hand to the clearing of Durham Church.

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[1] Though the name is given as George Preston in the *Journals* for this day (II, 71), it is given as Thomas in the same record for December 22 (II, 56).

f. 157b] After I had spoaken and some further shorte agitation touching Doctor Cousens had passed;[3] the Speaker did putt divers questions touching the uniust proceedings and sentences against Mr. Smart, and touching the censure of this Howse upon Doctor Cousens,[4] all which weere voted f. 158a] by us and soe ordered, That all the proceedings against Mr. Smart both at Yorke and Canterburie which lasted above a twelvemonth (upon a godlie and zealous sermon by him preached at Durham) are illegall and void, as alsoe the severall [*blank*][5] That the deprivation of Mr. Smarte was uniust and illegall and that hee ought to bee restored to his prebend-shipp in Durham and to all other Ecclesiasticall promotions of which hee was deprived.

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[2] Evidently a word has been left out between *ignorantlie* and *her*.

[3] "Mr. Selden. Would nott have had him voted here, for that it were to prejudge him which perhaps would bee thought an Entrenchment on the priviledges of the Lords House.

"Mr. Waller. That wee desired of the Lords, Some of their owne house might be remooved; much more may wee, that a Head of a College might bee remooved.

"Mr. Whitlock. Wee shall nott preiudge him, noe more then when this house sends up charges and accusations of Treason ect: against any man, which are voted soe here firste." Peyton, f. 72.

[4] C.J. II, 71.

[5] "The several fines imposed by them upon him." C.J. II, 71.

That Mr. Smart ought to have satisfaction from Dr. Cousens for his damages, and to bee restored to the mesne profitts therof.

That Dr. Cousens is guiltie of bringing in superstitious innovations into the Church tending to idolatrie and of speaking scandalous scornfull and malitious wordes against the Kings supremacie and the religion established.

Then Sir John Wray moved that wee might vote him to bee incapable of anie place of goverment in the universitie, and Sir John Hotham moved that hee might likewise bee voted incapable of anie Ecclesiasticall promotion; upon which followed divers disputes.

And soe it was resolved upon the question in the fifth place that Dr. Cousens was unfitt and unworthie to governe in anye universitie, or to continue the governor of anie colledge: or to holde and enioy anie Ecclesiasticall promotion in the Church.

And it was againe severallie moved that the matter should bee referred backe to the same Committee to draw upp a charge against Doctor Cousens and heads for a conference to bee had with the Lordes touching the removing of images out of all churches.

Then the Speaker when it was neare eleven went out of the chaire and the Serjeant removed the mace from the table: and the clarke went out of his chaire. But divers being called upon to come into it; ther was a stay made awhile till at last Mr. Mainard came into the saied clarkes chaire, and soe the Howse was resolved into a grand Committee.

Soe after a good while of silence that none offered to speake; I stood upp and moved: That wee weere now entring upon a great busines, yea the greatest wee had yet handled; which was the hinge upon which all the rest moved. For it was plaine that this was *cardo negotii,* and that all other treatie was staied upon it. Necessitie was the cause of ther demands; and necessitie will bee the iust warrant for us to yeild to those demands. And *suprema lex necessitas.* Necessitie being the supreame law, it would dispense with all other lawes; yea with the law of Honour it selfe if ther weere cause. But I conceived that Honour and Necessitie might well stand in the present case together, nay they might well bee coupled and married each with other. For if wee weere to deale with an enemie, everie yeilding might seeme full of constraint and coaction. But what a Prince indulgeth to his subjects, is like the goodnes of a Father to his children, and I never knew but that the moore gratious anie Prince had been to his people, the moore had his fame and glorie shined to posteritie. Wee had a full triall of this in two of the greatest Princes of Christendome, both living at one time and iealous rivals almost the whole time of ther life: they weere *aemuli Imperii, armorum et gloriae.* That was Charles the fifth of Spaine and Francis the f. 159a] first of France. The one in the busines of Gant, used much crueltie, the other in the busines of Rochel much lenitie, by which the later outstripped his competitor as much in glorie, and renoune as hee did him in greatnes of Empire and successe. What the late action had been of the Scottish nation was past my skill to fathome, but God hath brought much good out of it, and verified the Hebrew proverbe *Deus in monte videbitur.* They have as they affirme undergone the hazard, and are not able to support the charge. Heere then is our assistance required. And this putts us upon the discussion of three questions. First whether wee doe not thinke it fitt they should have support and reparation. Secondly for how much. And 3dly by what meanes this should bee raised. For the first wee should not I hoped long dispute it, but should bee readie to use the wordes of a noble person (I meant the Earle of Bristow at our last comference) to contribute to the supportation of this charge to our brethren of Scotland. And for the second I found the whole charge upon ther accounts to amount unto betweene eight and nine hundred thousand pounds, of which I conceived ther demand was 500,000£ but for the thirde question by what meanes this shall bee raised, I would enter upon the debate of this when wee weere readie for it, desiring wee might first handle the other two. After this it was disputed and debated; and ther weere three severall opinions in the Howse. The first that wee should vote it iust and reasonable that wee should contribute to the releife and support of the Scotts charges: but not enter upon anie summe what wee should give. Others weere of opinion that wee should promise nothing in generall, but onlie desire a conference with the Lordes about it. To that end spake Mr. Comptroller first and after him Mr. Treasurour, Mr. Selden and others. And Doctor Turner added, that hee would not have us to give till the Scots weere returned home. A third opinion was, that wee should resolve to make them some proportionable reparation; and if the Incendiaries estates would not serve then by our guift, and to this purpose spake Mr. Grimstone, Mr. Perd and others. Mr. Saint John moved that wee might resolve of reparation to bee affoorded the Scotts, but should referre it to the Lordes Commissioners againe to see, to how low a quantum they could draw it.

Then manye desired to have the question putt touching our readines to releive them, and that it should bee out of the incendiaries estates. I moved that ther was neede of plaine dealing in this busines, for neither delay, nor generall promises, nor referring matters backe to the Lordes Commissioners, nor a conference with the Lordes would serve. For wee weere now at a dailie great charge, and the longer wee deferred this resolution, the greater expence wee weere likelie to undergoe. It is tru that it weere iustice the Incendiaries who had caused these troubles should bee sufferers in them, and that *Una eademque manus vulnus opemque tulit.* But this is an uncertaine way, and will neither satisfie the Scotts, nor end this dispute. Wee must therfore put such a question, as may bring peace and helpe to dissolve the armies. And I durst boldlie affirme, that noe f. 160a] newes could bee moore ioyfull to the severall Counties of England then that a firme peace weere concluded betweene the two nations, and that they would bee readie in that respect to contribute cheerefullie towards the same. I therfore wished that the question might bee soe positivelie and categoricallie putt, as it might both engage us to see the reparation made good, and give such satisfaction to the Scotts as that the treatie might proceede, and draw to a conclusion.

Mr. Lentall the Speaker of the Howse being now out of his chaire at this grand Committee spake as anie other member of the Howse. Hee stood upp immediatelie after I had spoaken; and moved that wee might not ingage ourselves, but that wee should first send to the Lordes, to know ther opinions.

After this ensued a new dispute againe whether wee should engage our selves by a question and vote for soe much as a generall supplie of the Scotts, or pitch our vote that the Incendiaries should pay it. I moved againe that the Question ought to bee soe putt as might give the Scotts satisfaction; and wee might engage ourselves safelie in this particular. For though it bee true that the Scotts in ther narration and that Noble Lorde (the Earle of Bristow) whoe made the reporte to us at the conference: at which I was present and diligentlie attended, did both indeed mention the incendiaries and both touched upon ther punishment: as iust and deserved: but I did understand by neither that they did relie and pitch upon reparation or releife from thence. It concerned us therfore for the preservation of peace and happines at home, and to deliver our selves from the vast charge of maintaining two armies to resolve of yeilding a proportionable support to them, by the present question.

After other motions Mr. Treasurour urged, that wee should decline a question and not engage our selves to give anie supportation; for if wee did engage our selves but in generall times, it would binde us to pay the five hundred thousand and odd pounds which the Scottish paper demanded.

Mr. Pymme answeared that ther was no feare of that, because the manner and measure of giving weere still left free, and others agreed with him in the same answeare.

Then divers did endeavour to putt offe the further debate and dispute of this busines till too morrow; which I was against; and it being putt to the question, it was over ruled that wee should have the question now proposed and resolved on now and secondlie it was resolved upon another question, that wee should have this question following putt: which wee likewise carried in the affirmative: and then Mr. Maynard left the Clarkes chaire and the Speaker resumed his chaire and the saied MR. MAYNARD having made a shorte reporte to the Howse and Speaker of the question resolved on. After the Speaker putt the same againe and it was againe voted. that This

Howse thinkes fitt that a freindlie assistance and releife shall bee given towards the supplie of the Losses and Necessities of the Scotts and that in due time this Howse will take into consideration the manner and measure of it. And soe it being past two of the clocke the Howse rose.

f. 161a] In the afternoone the Committee for Bishop Wrenne sate in the Court of Wards of which Committee I was. Ther one Mr. Coke parson of Britten in Norfolke shewed that Bishop Wrens Commissioners in his visitation in 1636, did combine to putt downe godlie ministers; calling them first before them out of order, and reviling them and forcing the Church wardens to make new presentments according to ther owne will: and then to suspend them and sequester ther livings. That from him they had sequestred his living many months, because hee saied that hee did the same reverence at the name of God the sonne as at the name of God the father.

Then I went from thence to the Checquer Chamber wheere the Committee in Mr. Prinns busines sate of which Committee I alsoe was, and ther wee weere to debate the Jurisdiction of the high Commission Court and of the Starre-chamber. They weere in debate of that of the high Commission Court when I came in. It was conceived it tooke its originall from the statute de a°. 1°. Eliz.[6] it was then ordained for an extraordinarie remedie for some causes of moment. They cannot fine nor imprison by the saied statute: nor are to intermeddle with anie thing but Ecclesiasticall matters.

I shewed that whatsoever they did beyond the purporte of that statute was exorbitant: for in the Parliament de a°. 27°. Eliz., The Howse of Commons preferred many articles against the Ecclesiasticall Courts and proceedings of which I thought I had the autograph.[7] I had alsoe the answeares to them out of the originall Journall booke of the Howse of Commons.[8] For ther was a Conference about those articles betweene the Lordes and Commons; and the Archbishop of Yorke spake in the name of the Bishopps promising many particulars for them which they never since performed. And ther weere some proceedings then complained of touching the high Commission Court. But in the Parliament in 18°. E. 1.[9] in the ancient booke in the Tower wheerein matters in some of his Parliaments and of E. 2[10] are sett foorth ther is a famous case of William de Valence Earle of Pembroke[11] and Johan his wife who had procured a Bull from the Pope:

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[6] C. 1. no. 8, *Stat. of the Realm,* IV, 352.

[7] See D'Ewes, *Journal of all the Parliaments during . . . Elizabeth,* Preface.

[8] D'Ewes used the original Journals of the Commons. For the years 1580 to 1603 those have been lost. D'Ewes had been using them some time before 1630 and perhaps still in 1641 had some of those borrowed Journals. It may be suspected that it was D'Ewes's fault that the late Elizabethan *Journals* were lost.

[9] *Cf.* Statute of the Writ of Consultation. *Stat. of the Realm,* I, 108.

[10] See 9 E. 2. in *Stat. of the Realm,* I, 172.

[11] *Rot. Parl.* I, 16.

and in the discussion of the authoritie of that Bull ther is excellent matter sett foorth how farre Ecclesiasticall courts are to intermeddle. Ther is an other case in the plea Rolls of R. 1, of which ther are but a few remaining in the Treasurie heere in Westminster, in which the power of Ecclesiasticall Courts are bounded, and limited. Then wee fell to debate of the power of the Starre-chamber Court. I shewed that doubtles all the power of that Court tooke its first originall and beginning by the statute de a°. 3°. H. 7, and whatsoever they have done which is not warranted by that statute, is extraiudiciall and against the Law: unles it bee warranted by the power of the Counsell table. And that power is indeed very ancient but it is extant upon severall Recordes how in all ages almost, it exceeded its bounds and rights, and how it was checked and resisted. Ther is a famous case in the Communia Rolls of the Exchequer, *ex parte Rememoratoris domini Thesaurarii,* which I saied I wrote out of the Recorde at large, and it was about 47. H. 3, when the King wanted monie, and his Counsell devized hee should have a loane from the cittie of London, and framed a new oath upon which to examine everie man touching what hee was worth: But when some of the Councell came into the cittie, and called divers before them, and tendred this oath to them it was refused as illegall, and soe the proiect perished abortivelie. Awhile after the Committee rose.

f. 162a] January 23 Saturday 1640.

An Act for the enlarging of an intaile of the mannour of Flower and divers other lands in the name and blood of James Ewyon Esquire. (Etc.)

An information in writing was putt in against Thomas Jones[1] of Tyverton in the Countie of Devon Clarke, that July last 1640 hee had spoaken scandalous wordes against the last Howse of Commons before this; that as Aaron and the people Exod. 32, 1, on which text hee then preached, had made a calfe below, soe the devill and the people in the Lower Howse did the like. Soe it was ordered hee should bee sent for as a delinquent.

Then ther was an accusation in writing preferred against Dr. Chafin; who May. 22, 1634, preaching at Salisburie before Sir Nathaniel Brent the Archbishop of Canterburies visitor, in his metropoliticall visitation: commended Thomas Arundel in his sermon calling him a blessed Archbishop of Canterburie, and comparing our little Aaron to him (viz. the now Archbishop) but desired God to deliver us from Lay-Parliaments.

After a motion or two I stood upp and saied that, This Doctor Chafin was ancientlie the Lecturour of the Temples and therfore hee had conversed long enough amongst Lawyers to have a better opinion of Parliaments, and therfore it was a greater offence in him then in another. But for his comparison of our little Aaron as hee calls him with that Thomas Arundel, hee is much to bee commended for it: in respect the pararell holds soe fullie.

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[1] Of Offwell, Devon. The sermon was preached at Tiverton. C.J. II, 71.

For that Thomas Arundel lived in R. 2 time forbadd the preachers of those times to preach the truth inhibited the Scriptures to bee read in English which weere frequentlie before used. Hee raised upp persecution against John Wickliffe and other godlie Protestants; and sought all meanes by imprisonments and fines to destroy the Truth, and lastlie hee plotted treason against his Soveraigne. And for his little Aarons pararell with him, I thinke the application is soe obvious to everie member of this Howse as I need not proceed in it. My motion lastlie was that Dr. Chafin might bee sent for as a delinquent. Mr. Hyde spake in the defence of Dr. Chafin[2] that hee might not bee sent for: but it was ordered as I had moved that hee should bee sent for as an offender: for before I spake a person of creditt had at the barre affirmed the saied accusation to bee true.

Then SIR ROBERT HARLOW[3] preferred a petition with neare upon a thousand ministers names to it[4] and a Remonstrance with it desiring a reformation in matters of Religion and the Goverment of the Church which was read, and divers of them called in, whoe did averre the petition in the name of the residue to bee owned by them. And soe after some dispute it was resolved that the saied petition should bee first read on monday next.[5]

MR. TREASUROUR brought a message from the King that wee should attend him this afternoone at 2 of the clocke in the banqueting howse.

Then ALDERMAN PENNINGTON made reporte from the cittie that they had provided the 60,000£ to lend it but hearing that Goodman the Jesuite was the other day reprived, when hee should have been executed, and that the late Lorde Keeper was countenanced by the Queene of Bohemia at the Hague[6] and was wafted over into the Low-cuntries in one of the Kings shipps;[7] That Secretarie Windebanke[8] was likewise countenanced in France by the Earle of Leycester the Kings Ambassadour ther: and that a Letter came latelie from the Lords of the Upper Howse to the Cittie for the countenancing of innovations; upon all which grounds and reasons the saied Cittie weere now resolved not to lend the saied somme or any parte of it.

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[2] Possibly the Dr. Chafin whom Hyde met at Maidenhead in 1630 (Clarendon, I, 73). This was the first time, I think, that Hyde rose to defend a clergyman. As to the proceedings of this committee see his opinions, *ibid.*, I, 263-264, 404-408.

[3] Harley. See Peyton, f. 72, and *M. of P.* I, 489.

[4] "Subscribed by 1000 ministers in ther owne names, and in the names of others their brethren." Peyton, f. 72.

[5] "Sir Gilbert Pickering delivered another, in the names of the Ministers within the Diocesse of Peterborough of the same nature." Peyton, f. 73.

[6] See the later letter of Elizabeth of Bohemia to Finch (*Archaeologia*, XXI, 476-477) and Henrietta Maria's letter to him soon after he went over (*ibid.*, 476). See also Aitzema, *Saken van Staet en Oorlogh, in, Ende omtrent de Vereenigde Nederlanden* (Graven Haghe, 1669), II, 740.

[7] Aitzema, II, 740.

[8] For Windebank in France see Robert Read to Thos. Windebank, Paris, Jan. 8, *Cal. St. P. Dom. 1640-1641*, 415; Sir Francis Windebank to Thos. Windebank, Paris, Feb. 1, *idem*, 426; and other letters from Windebank and Read from Paris, *ibid.*, *passim;* Prynne, *Hidden Works* (1645), 121-138.

But it was answeared for two of the saied reasons; first that the Queene of Bohemia had written over with her owne hand that shee refused to f. 163a] speake with him till hee had cleared himselfe, and the Lord Lisle averred that his father the saied Earle of Leycester, had given noe countenance to Secretarie Windebanke.[9]

Then it was debated that wee should have a speedie conference with the Lordes about the execution of the saied Goodman the Jesuite and questioning other Jesuites and preists, that now swarmed about the towne.

Then SIR CHRISTOPHER WRAY moved that Mr. Gardiner the Recorder of London might bee sent for out of Westminster hall presentlie to give an account to this Howse by what warrant hee reprived him.

Hee being come and brought in by the Serjeant stood at the barre; and ther related that after the saied Goodman was condemned; hee was sent for to the Court at Whitehall to speake with Sir Henrie Fane the Treasurour of the household; and one of the Secretaries of State: Being come to him the saied Mr. Secretarie Fane tolde him that it was the Kings pleasure the saied Goodman should bee reprived,[10] and did further desire him to dictate to his the saied Mr. Secretaries clarke the manner and forme of a warrant to bee signed by the King for the stay of the saied execution: which at the saied Mr. Secretaries intreatie hee did, and soe awhile hee received the saied warrant signed by the King; upon which the saied Goodman was reprived.

Then the Recorder went out of the Howse; and MR. TREASUROUR sitting next the Speakers chaire on the right hande who had heard what the Recorder had saied; stood upp, and denied that this reprive had been motioned or procured by him, but that the Recorder himselfe was guiltie of the procuring of it. Then the Recorder was againe called in, and desired by the Speaker to make relation againe of what hee had before saied, that ther might bee noe mistake: And soe hee related the same againe almost verbatim as hee had done before; and then was dismissed. After his departure, the saied Mr. Treasurour stoode upp and onlie desired the Howse in a few wordes to have a good care of him till hee had further cleared himselfe, and soe shortelie after hee went out of the Howse.

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[9] The Earl of Northumberland had written his brother-in-law Leicester: "We here beleeve Secritarie Windebank to be att Paris, and that hee shall there be receaved with much Honor; but your Lordship (in my opinion) will do your selfe no Iniurie by keepeing him att a distance." Northumberland to Leicester, Dec. 17, 1640. Collins, *Letters and Memorials of State* (1746), II, 666. In another letter (Dec. 31) Northumberland writes to Leicester: "I have spoaken with Vane concerning Leycesters Carriage towards Windebanke; he is of opinion, that common Civilities to him are all that will be expected from Leycester. . . Of this he tells me, that he will now, by this Post, write something to you." *Idem,* 666.

Leicester heard at once of Pennington's attack and wrote back (probably to Mandeville) somewhat querulously, asking to be set right, and saying that Windebank "hath had no more from me than such civility as is due to a person of his quality . . . I thought some of my old friends would have answered the Alderman in my behalf." *Manchester MSS.* (*Hist. MSS. Comn.*), VIII, Pt. ii, 57-58.

Between the lines of Windebank's letters to his son Tom (in February) one might read that he had not found his reception in Paris cordial. See *Bath MSS.* (*Hist. MSS. Comn.*), II, 75-77.

[10] Baillie (I, 295) says that the King's reprieve of Goodman was "taken by all to have been done of purpose, for a preparative to save the life of the Lieutenant and Canterburie."

Then it was moved that wee should speedilie desire a Conference touching the saied Jesuites reprive with the Lordes by a Committee of both Howsẽs in the painted chamber speedilie if it might stand with ther Lordships convenience; and this being agreed on Mr. Glinne and some other members of the Howse weere directed to goe presentlie to the Committee chamber to prepare heads for the same conference: and so they did. And whilest those heads weere preparing Sir John Culpepper was sent away with the same message. I accompanied him, and after the message delivered, the Lordes yeilded to a speedie conference. Soe I staied in the painted chamber and returned [not] backe to the Howse; and soon after the Lordes many of them came out and tooke ther seates, but staied a good whiles ere Mr. Glinne came who was appointed by the Howse of Commons to manage the saied Conference, when hee was come. Hee shewed that ther being great offence taken at the late reprivall of one John Goodman a Preist and Jesuite condemned of high Treason: this hee shewed being done first in Parliament time; and secondlie when soe many Preists and Jesuites swarmed heere in the cittie, was a dishartening to those whoe weere good and an encouragement to them whoe weere evill: soe as wee now thought it fitt to have recourse to ther Lordships to mediate with his Majestie for the execution of this Preist, and for the banishing of the rest, that yet remained heere in great numbers. After which conference wee being returned to the Howse, did soon after rise.

Post Meridiem.

f. 164a] In the afternoone the greater parte of both the Howses of Parliament mett in the banqueting Howse at Whitehall. I was ther present and about three of the clocke in the afternoone the King came in: and spake verie loud.[11] Hee shewed first that hee came to quicken us concerning the

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[11] For the speech in full see L.J. IV, 142. The version of the speech given by Rushworth (IV, 154-155) and by Nalson (I, 735-736) is much like that given in the *Lords Journals* but variant enough to make it appear that it was made by someone who took fairly full notes and then filled out the notes from memory. In other words, the points and striking words, but not the sentence arrangement and phrasing, are the same.

Nalson (I, 736-737) tells us: "In the print which commonly went about besides abundance of misrepresentation of the Kings sence, I find two of the most material paragraphs wholy omitted, the one concerning the Bishops, viz. Now I must tell you I make a great difference between Reformation and Alteration of Government; though I am for the first, I cannot give way to the later. The other concerning the Bill for Triennial Parliaments, by which it seems it was provided that if in three years the King did not cause writs to be issued out for elections, the High Sheriffs and other Officers were to be impowered to do it, upon which after having told them he could providing monies to furnish the Navie and the armies in the North: hee shewed further that hee did desire that all abuses and greivances in Church and State might bee reformed, and reduced to the best state and condition they weere in at anie time during Queene Elizabeths raigne.[12] Two rocks hee was to admonish us of; that was the Bill touching frequent Parliaments, and the Petitions preferred in against Episcopacie. For the first hee saied it trenched upon the fundamentall prerogatives of his crowne, and hee could not with his honour allow it, or transferr that roiall power of his into the hands of Sheriffs or Constables. Hee conceived it to bee best for his estate to have frequent Parliaments, and to that end had given order to his learned Counsell, soe to amend and alter the saied bill as might bee both honourable for himselfe to passe and satisfactorie for us to receive.[13] For the other matter touching Episcopacie and Bishopps; hee desired reformation not alteration. They had long continued, and weere soe interested and conioined with and unto the very fundamentall lawes of the realme as hee tooke himselfe bound to preserve them.[14] And they had for soe many yeares enioied voice and place in Parliament, as they could not now bee dispossessed of it. Hee saied lastlie that hee understood ther had been that morning a Conference betweene the Lordes and the two Howses touching the reprivall of one Goodman a Preist, to which matter hee would now say nothing, but send his reasons to the Lordes of the Upper Howse on monday morning ensuing.[15]

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not permit that indignity to his authority, this paragraph following is wholly omitted, viz. To which purpose I have commanded my learned Councel to wait upon you my Lords, with such propositions as I hope will give you content. So early did these Artists of Faction indeavour to misrepresent his Majesty to his People in his Resolutions and Gratious Intentions."

The abbreviated version to which Nalson refers is undoubtedly that given in *S. and P.* (4-6). If so, the differences are limited to the omission of the two sentences which Nalson quotes in full which was due, one suspects, not so much to malevolence as to the carelessness of stationers and scriveners.

See Whitelocke's version, *Memorials,* I, 115-116.

Peyton's version of the King's speech, given on Jan. 25, when the Speaker reported it to the Commons, while briefer, is much like the standard "separate," *i.e.,* like the Rushworth-Nalson version.

D'Ewes's version is unworthy of his note-taking abilities. The order of thought is not only illogical but different from the clear order shown in all the other versions; there is repetition and confusion. D'Ewes probably wrote the speech out in his Journal some time after the event and wrote it without notes, from memory alone, because he expected later to procure a "separate." That separate he never inserted.

[12] "Noe alteration butt a reformation such as would suite with the best and purest times of Queen Elizabeth." Peyton, f. 74. *Cf.* Nalson, I, 735, 736.

[13] "Because hee desired the bill should passe hee had given his learned Counsell directions for the fitting of a way that may agree with his honor and prerogative." Peyton, f. 74.

[14] "Bishops which was a government hee received from his Ancestors and was established here before the Conquest and therefore was very unwilling to alter it, and could nott tell how to spare them. . . . butt if they have enlarged ther Jurisdiction upon the Temporalty hee would have that rectified, and if occasion bee perswade them to lay downe some of ther right to avoide offence." Peyton, f. 74.

[15] For the reasons see L.J. IV, 142-143.

This speech filled most of us with sadd apprehensions of future evills in case his Majestie should bee irremooveablie fixed to uphold the Bishops in ther wealth pride and Tyrannie.

From Whitehall I returned to Westminster, and after some discourse past with divers members of the Howse of Commons, I went into the same Howse wheere the grand Committee for Religion sate. Ther was ther present Dr. Heyward parson of St. Giles in the Feilds London, being questioned for sundrie crimes both practicall in his adorations and doctrinall in his sermons; preaching that men weere bound to confes ther sinns to a preist; that the Virgin Marie was without originall sinne and the like. It was prooved alsoe that hee licenced about the yeare 1636 a popish booke translated by one Mr. Yaxlie a Papist, and dedicated by the saied Yaxley to one Mr. Roper a papist when the saied Dr. Heyward was then household chaplaine to the now Archbishop of Canterburie. The saied booke was intituled, An introduction to a godlie life. When the printer one Oakes stopped the further printing of it, and acquainted the same Dr. Heyward how offensive hee thought divers passages in the saied booke would bee; hee badd them goe on and hee would iustifie it. But when the booke was afterwardes questioned and burnt, hee by his subtle evasions and the same Archbishops power shifted offe the saied impression and the popish errors in it from himselfe to others. Hee sometimes spake and made slender excuses for himselfe; but the particular offences with which hee was charged, weere verified by severall witnesses. And ther divers things prooved alsoe after my departure.

f. 165a] January 25, Monday.

Mr. Perd (after some motions of little moment weere made) reported from the Grand Committee of the Courts of Justice, That Samuel Withring John Hoke and Henry Garrat[1] parishioners of the parish of St. Bartholmewes London had been sued in the high Commission Court and fined about the Clarkes wages in that parish and the cheife actors in that sentence weere the now Archbishop of Canterburie, Bishop Wrenn Bishop of Ely and Sir John Lambe Doctor of the Civill Law, and Dr. Ducke. That they had ther adiudged and decreed that the saied clarke and his successors should have a certaine stipend; which should bee levied upon the howses of all the inhabitants of the saied parish.[2] Soe as the saied Committee had upon hearing the whole matter voted that the saied sentence with all the proceedings before it and execution upon it weere illegall and that the saied parties ought to have restitution of ther cost fine and damages in the saied suite susteined. And the same was alsoe resolved upon question at this time in the Howse and soe ordered accordinglie.

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[1] Withered, Hooke, Garrett. C.J. II, 72.

[2] "Mr Peard reported, from the Committee of Courts of Justice, That the Clerks of Parishes having putt themselves into a Corporation, tooke upon them to sue upon ther Patent, for the rent of 4d a quarter for every house, in the Highe Commission, whiche the Committee did thinkee to bee *Coram non Judice;* and that the Parishe Clerke was a meere Lay-man: and that it was undue for the High Commission to admitt causes upon a private patent, ect. This was thought to amount to a Praemunire and another day assigned for it.

"Mr. White. By the Statute: 16 R. 2 They are in a Praemunire: To offer letters Patents is nott to prevaricate a *mandatis Ecclesiae.*" Peyton, f. 73.

Then it came to bee disputed who should pay the saied fine costs and damages whether the above named fowre Commissioners alone or the rest of the Judges that gave sentence that day. Divers weere earnest that those fowre onlie should make it good. I moved that a crime committed in the act and sentence of Judicature, was essentiallie alike culpable in all; but that graduallie the moore active might bee moore worthie of punishment. And therfore I thought it most iust that all those other high Commissioners that had given sentence against the saied parties should answeare ther share of the saied costs fines and damages as well as the saied fowre. And soe it was voted in the Howse upon my saied motion, that the saied parties should bee soe satisfied from the saied fowre above named Commissioners, and from all others the Judges in the saied High-Commission Court that the same day gave iudgment against the saied Samuel Withring John Hoke and Henry Garrat.

Then it was moved that all the saied High Commissioners by appointing the saied Clarkes wages to bee levied out of mens howses; had exceeded the bounds of that Court, and intermedled with lay fees and with the inheritance of the subjects of England and soe weere guiltie of a praemunire. But the voting of this particular was laied aside for the time, till it had been further considered offe: as alsoe the taking into further consideration the Kings Letters Patents granted to the parish clarkes of London by which they are made a corporation.

Then the Speaker read the Kings speech openlie in the Howse out of a copie therof sent to him by his Majestie much to the same effect as I have sett it downe on Saturday in the afternoone immediatelie preceding; saving onlie what I ther omitted, that his Majestie saied that hee appointed his Counsell to draw a new bill for a trienniall Parliament, which hee hoped would give content to all men.[3]

Then Mr. Capell one of the Knights of the shire for Hartfordshire preferred a petition in the name of the Countie of Hartford for the abolishing of Episcopacie, to which was adioined the hands of above 2800 persons. The like petitions weere preferred by Sir Oliver Luke for Bedfordshire,[4]

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[3] In an account of this day recorded by D'Ewes on a separate paper (the back of an old letter), is to be found the following omitted from this account: "Sir Walter Earle shewed that it was ill the King was enformed of what [*margin torn*] did, nor was hee discovered with what his Majestie had saied but hoped wee should soe proceed as that wee should iustify our actions to God and the King and all" [*illegible*]. Harl. 165, f. 89.

[4] See *Cal. St. P. Dom. 1640-1641,* 445-446.

and by other knights of the shire for Sussex Surrie Cheshire and Warwicke.[5]
f. 166a] Then was a like petition delivered in by SIR PHILIP PARKER one of the knights of the shire for Suffolke in the name of that Countie with above 4400 hands or names to it. MR. CHICHELIE one of the knights of the shire for Cambridgeshire delivered in a like petition from that Countie with above a thousand hands to it. The like petitions weere delivered in by the knights of the shire for Glostershire and Buckinghamshire with divers thousands of names to them. And lastlie MR. POTTS one of the knights for Norfolke delivered in a petition of the same nature for the saied Countie, with above 2000 hands to it. All which petitions tending to the abolishing of the Bishopps with ther hierarchicall goverment,[6] it was disputed upon what day they should bee read; and whether the remonstrance preferred by the ministers on saturday last should not bee first read.

Whilest this debate was in agitation, and before anie thing was concluded in it MR. HENRIE BELLASSIS eldest sonne to the Lorde Falconbridge moved that wee should send upp to the Lordes to let them know the vote wee had made touching our releiving the Scotts in a freindlie manner on friday last past the two and twentieth day of this instant Januarie.

Then it was disputed whether wee should enforme the Lordes of the same onlie by a message or by a conference by a Committee of both Howses to bee desired by a message. And it was conceived that as the agitation and relation of this busines was transferred to us by a conference, soe our answeare ought to bee returned to ther Lordships in the same manner.

Whilest the Howse was debating this matter, a message was sent to us from the Lordes by Serjeant Aylif, and Sir John Bankes the Kings attourney generall: who being brought into the Howse by the Serjeant according to the usuall and accustomed forme; the saied Serjeant Ailif saied, That the Lordes desired a conference presentlie by a committee of both Howses in the painted chamber touching the reprive of John Goodman the Preist; if it might stand with the conveniencie of this Howse. After the messengers had withdrawen themselves the Howse resolved speedilie to give them an answeare which the Speaker related to the same messengers being called in; and then they withdrew and departed.

f. 167a] After some shorte agitation of little moment; it was moved that noe deputie Leiftenant may bee of [*blank*][7]

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[5] Peter Heylyn in his life of Laud (*Cyprianus Anglicus*, 442) says: "The Committee authorized by the House of Commons for affairs of Religion, finding their work begin to fail them, and that Informations came not up so fast as had been expected, dispatched Instructions into all parts of the Kingdom for an enquiry to be made into the lives and actions of the clergy in their severall parishes."

[6] In his speech the King adverts to "those Petitions . . . given in the name of several Counties" (L.J. IV, 142), certainly implying that the petitions originated from London.

[7] The blank may be filled in from the account of this day on a separate paper.

"A petition against Thomas Gauler in Somersetshire for drunkenness adulterie, suites not preaching.

f. 167a] January 26, Tuesday 1640.

After some shorte agitation of little moment, wee fell upon the dispute whether Deputie Leiftenants should continue of the Committee in which the irregularities and offences of the Lordes Leiftenants, of themselves and other militarie officers weere to bee complained of. Divers moved that they might continue in; and the maior parte of the Howse enclined to have them left out. I moved that I thought it a greater honour to the Deputie Leiftenants to bee putt out of the saied Committee then to bee left in, because the proceedings may else bee thought impartiall by ther being iudges in ther owne causes. Another reason why I conceive they should bee left out, is because it will discourage persons greived to complaine, when those

"Lord Privie Seale. That the King was tender of the bloud etc. John Goodman not condemned before, etc. A paper from the King etc. Advice of the Lords required for expulsion of those heere and keeping out those that are to come in. And that the Lordes upon this desired a free conference with us, that wee might together advize his Majestie of a speedie course.

"Divers speeches followed on this but most desired that wee should deferre this conference till too morrow morning. And Mr. Grimston added that that Goodman was a Traytor within the statute and wished that hee might bee executed.

"Then Mr. Bellasis had the order delivered to him touching the message. Soe he did. And a little after Mr. Whitlocke went upp to manage the Conference and wee mett there about twelve of the clock.

"Being returned wee fell into dispute when to read the ministers petitions and the Remonstrance brought with it with the petitions of the Counties against Episcopacie. And it was ordered that wee should take them into debate on Monday next and soe the ministers remonstrance first, and the other busines after." Harl. 165, f. 90 *verso*.

Hyde reported from the conference, "That the king was tender in the case of blood, and according to the custome of his Predecessors was enclined to use grace where Imprisonment or Banishment would satisfie the law. . . . The Lords desired to have a free conference how to take a Course for the expulsion of all Preists and Jesuits, and how to expedite the execution of such as shall returne after banishment." Peyton, f. 74.

Upon which Mr. Strode remarked: "Wee have had as great promises already as can bee made or expected, and therefore hereafter lett us take a care that wee have better performance." Peyton, f. 74.

The rest of Peyton on this day deserves quotation: "Mr. Maynard made a motion that the Towne of Seaford in Sussex should be remitted to the ancient right of sending Burgesses to the Parliament, and desired a warrant might goe to the Clarke of the Crowne to issue writt to that purpose ect.

"Mr. Selden. That since 18 Jac. many Townes had revived the right which they never used neither above once, or twice, or thrice at most; for none of those that have beene revived ever sent above thrice: and that this Towne hath sent as others that most of those that have beene revived since 18 Jac. appeares; for that it sent Burgesses 26, 27 and 28 E. I. ect.

"Mr. Hampden. It was nott only a right butt a service which they ought to performe."

On the back of the separate sheet already mentioned D'Ewes records a post meridiem session of a committee.

"Bishop Wrenns Committee the petition of the cittie of Norwich. First the introducing Innovations in matters of Religion the suspending and depriving of ther Ministers uniustlie . 3, The driving many tradesmen from thence to the Low-cuntries, and 4, A setting of rates upon the howses which they should pay to the ministers.

"Mr. George Cooke minister of St. Andrewes in Norwich would not administer the sacrament unles etc. and yet hee did it onlie because he was soe strictlie enioined." Harl. 165, f. 90. About Norwich tradesmen, see below, p. 294, n. 12.

to bee complained offe shall sitt as Judges of ther owne crimes. Besides Committees are often thinne and tis verie possible, the maior number may consist of Deputie Leiftenants, for the most parte. And lastlie for mine owne parte I conceived that the verie office it selfe in the *toto composito* was against law, and therfore it was much the moore reason they should not bee present, when the roote it selfe of ther authoritie was to bee disallowed. But then it was pressed by divers that wee should lay the question aside; and that the Deputie Leiftenants should at ther owne discretion forbeare f. 168a] comming to the Committee aforesaied or giving any vote in it. And soe this way as the most moderate and indifferent was laied holde offe, and the further dispute of this busines laied aside, and the busines of the day entred upon, Which was the preparing of heads for a free conference with the Lords touching the reprive of John Goodman the Preist or Jesuite and for the clearing the realme of all other Preists and Jesuites. Then was againe the Kings message sent to the Lordes in writing read as it had been yesterday, by which hee signified that this reprive was onlie granted in an ordinarie way, upon the Recorders comming to the King as the use was to enforme him who weere condemned and for what offences: and soe this man being onlie condemned for being a Preist in orders meerelie, was reprived: and the King was still readie to punish him by imprisonment or banishment. After a motion or two Sir Henry Mildmay moved; that the Jurors might bee sent unto who passed upon the saied Goodmans life, for hee heard that it was fullie prooved that hee had laboured to seduce two or three persons at the least. I stood upp and moved, That this advice though it weere good yet it was [un]seasonable; for the time was now too shorte to putt the same in execution; the time drawing on for our free Conference with the Lordes. Wee must therfore thinke of other reasons and arguments. Tis true that as the Law against offenders is *vox indicii et Justitiae,* soe with the King is *asylus miserecordiae.* To spare the shedding of bloud in some cases is a parte of his prerogative: but this present busines is a matter of great waight on which much depends. For if the sparing of this one malefactor iustlie condemned, may hazard the safetie of the kingdome not onlie as it concernes a mischeife preserved in his particular; but alsoe the disbanding of the Kings armie it selfe, then it weere much safer for him to suffer then to live. And I doubted that noe monie would bee lent from the cittie, unles due and speedie execution of him weere past. For those two offers that are proposed of banishing or imprisoning him, they weere rather rewardes then punishments. For if hee weere banished, wee should but returne him to his freinds his confederates his pleasures and his vices: wheere hee might plott new wickednes and villanie. It is observed by the best and wisest Historian of his age (I meant Thuanus) that when instead of executing Byrons secretarie[1] in

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[1] Carolus Hebertus.

France they banished him into Naples,[2] hee ther sett upp a forge for dangerous counsels and treasons; and never gave over till hee had almost ruined the French Empire it selfe at one blow, I meane in the murder of that great and last warlike Prince ther. As for imprisonment alsoe, ther cann noe good come of that neither. For heere they are not guarded as those good men weere in severall castles (I meant Dr. Bastwicke Mr. Prynne and Mr. Burton) without penn inke or paper; but they have ther frequent visitants and releivers; they have bookes and all other meanes to write seditious and dangerous pamphlets, Harpesfeild being in prison heere amongst us whole volumes of dangerous consequence by which many have been since seduced. For the dispelling and banishing of them that yet remaine in great numbers as well preists as Jesuites ther is noe way but one, and that is, to sett a shorte day for ther departure out the Kings f. 169a] dominions; and that whosoever shall afterwards bee taken heere may have no colourable protections but may undergoe *Capitale Supplicium.* For certaine those subtle heads will never lay by ther machinations, soe long as either they have a harbouring place heere, or ther heads have a resting place upon ther shoulders.

Then divers others spake severallie some for the execution of the saied Goodman, others for his banishment and others for his imprisonment: but all agreed that wee should moove for the banishment of all the Preists and Jesuites among us.

Mr Glynne made a large relation touching what hee had found out touching this John Goodman that hee had been at first a minister of the church of England, though of noe good fame: and that after hee turned Preist or Jesuite. That hee had been twice before taken and committed and then delivered by Sir Francis Windebanke one of the Secretaries. And that being now lastlie apprehended hee was sent to Newgate and condemned. Hee shewed other examples of severall preists or Jesuites that had of late yeares been condemned and then pardoned; and taken againe and condemned of high Treason, and yet pardoned the second time. Hee shewed alsoe that not only by a statute made a°. 1°. Jacobi,[3] but by another law alsoe passed a°. 3°. Jacobi cap. 4,[4] all the former lawes made against Preists and Jesuites weere ratified confirmed and established.[5]

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[2] J. A. Thuanus, *Historiarum sui temporis* (1733), VI, 145-146.

[3] A. 1. Jacobi. c. iv. *Stat. of the Realm,* IV, Pt. ii, 1021.

[4] *Stat. of the Realm,* IV, Pt. ii, 1071.

[5] The debate is given in Peyton (f. 75):

"Mr. Bagshaw. When the Preist is reconciled to the See of Rome, hee takes an oathe to defend the Pope against any Prince and Potentate whatsoever, which is expressed in *Conc[ilium] Trident[ium] ect.*

"Mr. Trelawney. That Protestants living at the mercy of forreine Princes abroad, will suffer perhaps in the same kind, if wee proceed too rigorously upon this Preiste: And the Irishe army now inrolled consisting most of Papistes may bee exasperated ect.

"Mr. Rigby. The being a Preist is nott Treason; butt being within the kingdome contrary to the Stat. of 27 Eliz. And that this repreive of the Preiste, was an Inter-

After this severall members of the Howse spake concerning the execution of the saied Goodman, some aggravating the act of his reprive as ominous and offensive because done at this time sitting the Parliament: and all agreed in the generall that the Preists and Jesuites weere to bee punished severelie by death if after the contempt of the late proclamation they did not speedilie depart the realme.

SIR FRANCIS SEYMOUR observed, how unfortunate the King had been in repriving this Jesuite at this time to the discouragement and discontent of both Howses and of all his good subjects. Hee therfore desired that the busines might bee enquired unto; that it might bee fullie discovered whether the Recorder of London had not sollicited this busines and procured the saied reprive from the King: that soe further consideration might bee had of his misdemeanour therbie incurred.

Then the day being farre spent and it drawing neare twelve of the clocke wee laied aside all thought of a free conference till too morrow morning with the Lordes; and soe a committee was named to meete this afternoone at two of the clocke in the Dutchie Court to prepare heads out of what hath been this morning agitated in the Howse, for the saied free conference too morrow with the Lordes.

This being setled and ordered, A motion was made that the woman[6] who accused Ocone[7] the Irishman being examined, had againe averred that hee tolde her the new armie in Ireland was prepared to subvert the lawes of England, and that hee himselfe meant to kill the King: and therfore it was wished that as Mr. Perd and Mr. Glynne had been sent to the Judges of the Kings bench last terme to stay his iudgment and execution, soe they might now goe [to] the same Judges to hasten the same: but nothing was ordered in that particular. It was alsoe resolved by the Howse upon the question, that the saied woman should bee sent for to the Howse to bee heard heere too morrow morning it being declared to the Howse that shee had some other particulars to discover to us.

MR. NOEL moved that divers popish bookes and superstitious trinkets had been taken at one Mr. Halselwoods howse in Beltone in Rutlandshire; and one taken that fledd from his howse supposed to bee a Preist: soe it was ordered that Mr. Speaker should write to some of the neighbour Justices to examine the matter fullie; and to send a certificate of the whole matter to the Howse.

f. 170a] SIR JOHN CULPEPPER one of the Knights of the shire for Kent,

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ruption cast among us by ill-wishing spirittes, and therefore desired it might bee enquired into, ect.

"Mr. Glyn. The Stat. 27 Eliz. the firste Lawe to make treason in Papists; and note the preamble: ect. *item vide* 1 Jac. 4, et 3 Jac. 4: 5: note the preambles.

"Mr. White. Protestants abroad take noe oathe to any forreine Prince whom they live nott under personally nor maintaine such dangerous Tenents."

[6] Mrs. Anne Hussy. C.J. II, 73.

[7] Oconnor. *Ibid.*

shewed that hee had sent a copie of the order of this Howse made before Christmas to the Justices of the peace in Kent for the inditing of Recusants convict. And that at the last quarter sessions held at Canterburie ther had been above seventie indicted and convicted.

Post Meridiem.

In the afternoone divers of the Committee in Mr. Burtons and Mr. Prinns petitions of which I was mett in the Checquer chamber: and wee weere ther a prettie while before eight came to make a full Committee. Wee now handled noe private mans busines, but fell upon the discussing and debating of the iurisdiction of the high Commission Court. Against the exorbitant proceedings of which divers spake. I saied that ther weere two circumstances which weere intended at first to bound and limitt this court. The first that lay men weere added to bee iudges of it. The second that prohibitions out of the Kings bench and Common pleas did lie against it. But now the lay Judges in it did either seldome come or if they weere present, ther was soe great an odds of voicies as the Bishopps carried all. And if wee should account the Doctors of the Civill law amongst the Lay-Judges, wee must yet remember that they soe depended upon the Bishops as ther votes did readilie ioine with them. It was the course of other states to moderate the overswelling power of the Clergie. The Venetians that had flourished soe long in wisedome and power, would not admitt clergie men to have anye power to question men in matters of religion, but did execute the same by lay Judges. In France under H. 2 when the Bishops had procured a bloudie law, the Parliament of Paris did intercede, and stopped it, that the Bishopps and ther clergie should not make inquisition in matters of Religion. Ther examples may teach us what course to take. For the verie Inquisition of Spaine had a good couler in the first institution; being onlie intended against Moores and Jewes, but is now turned to the ruine of the godlie protestants. Soe this high Commission had a good couler in the beginning to punish vice and error but now it ruined scarce anie except such as weere pious and innocent. What a Frenchman once saied in Smithfeild in H. 8 time *Deus bone*. How doe the people live heere, wheere the papists are hanged and the Protestants are burnt: may bee saied now of the high Commission Court, wheere Vice and Vertue are both punishable. For tis a crime ther to bee strict in religion, as it was saied of Caius Seius that hee was blamed in Rome for being a good man: and Thuanus reports of a learned man condemned ther by the Cardinalls for reprooving vice too sharpelie. Nor was ther anie great question but that if matters weere ther well searched, but wee should find fortie honest men censured to one knave for the space of at least tenn yeares last past. Then after a little further dispute the copie of the first Commission by which that Court was established bearing date Jul. 19, a°. 1°. Eliz. was read excepting the Commissioners names, in which it was appointed that they should trie by iuries of twelve men. Ther alsoe the power was small and the Commissioners few. But then wee had a copie of the last Commission granted them bearing date Dec. 17, a°. 9°. Caroli,[8] and that was of great lengh, the Commissioners appointed in it many, the power extreame and exorbitant, neither warranted by the statute de a°. 1°. Eliz. nor by anie other law or statute; which was given to the same Commissioners by it.

f. 171a] After a little further agitation of the saied question touching the exorbitant proceedings of the high Commission Court wee voted; That the saied Commission bearing date Dec. 17, a°. 9°. Caroli was not warranted by the statute de a°. 1°. Eliz. nor by anye other law or statute nor the Commission granted to the high Commissioners at Yorke, but that both weere against the law.

A while after wee weere risen from this Committee I went to the Committee touching shipp-monie of which I was alsoe; and ther Thomas Coningsbie[9] Esquire that was sheriffe of Hartfordshire in 1637, and 1638, viz. in parte of each yeare[10] was present, being questioned for the rigorous leviing of shipp-monie: and it was prooved that one Prudden his baylif had wronged divers by distraining, and had exacted fees viz. 2s 6d upon distresses when hee tooke them; and tooke divers before hee demanded the monie assessed, and having taken the distresses sold them at under rates. Mr. Coningsby made but slender defence, in those particulars, weere complained offe.[11]

January 27 Wednesday 1640.

An act for the abbreviating of Michalmas terme was read 2^{da}. vice and therupon committed to severall Committees of which I was named one.[1]

The act or bill touching Salt-Marshes etc. was read alsoe 2^{da}. vice and committed after divers had spoaken to it. To meete friday afternoone at two of the clocke in the checquer court. The former Committee alsoe was to meete at two of the Clocke this instant day in the afternoone in the Checquer Court.

Mr. Glynne made reporte from the Committee appointed yesterday to draw upp heads for a free conference with the Lordes this morning[2] about

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[8] *Cal. St. P. Dom. 1633-1634,* 326-327.

[9] Thomas Coningsby of North Mimms. *Cf. Cal. St. P. Dom. 1638-1639,* 274; A. Kingston, *Hertfordshire during the Great Civil War* (1894), 4, 8, 13, 15, 24.

[10] Coningsby was sheriff but one year, as of course D'Ewes means. Thomas Hewyt of Pishobury was sheriff in 1638. Clutterbuck, *History and Antiquities of the County of Hertford* (1815), I, xxxiii.

[11] Peyton (f. 75) records a meeting of the Committee of Trade: "Mooved, There might bee a generall Trade, for in France, Spaine and the Netherlands, there were noe companies: and that it bee better for the kingdome." But *cf.* App. A, p. 525.

[1] See names of committee in C.J. II, 73.

[2] "A Conference was had with the Lords to advice what course were best to take against Recusants; and among heads for that purpose one was to desire the Lords

John Goodman the preist or Jesuite that had been reprived and for the banishing of the other Preists and Jesuites out of the kingdome. Hee first shewed that the statute de a°. 27°. Eliz. cap. 2,[3] and the other statutes made in Queene Elizabeths time against preists and Jesuites did onlie concerne such as weere borne within this Realme and weere not onlie made for Religion, but for the preservation likewise of the roiall person of the Queene and her successors, and for the safetie of the kingdome. Then hee shewed manie reasons the same Committee had drawen why the saied Goodman ought to bee executed who had twice been before apprehended imprisoned and delivered: and why alsoe some speedie severe and exemplarie course should bee taken against the other preists and Jesuites now in the realme. As the great increase of papists and Poperie. The boldnes and impudencie of preists friers and Jesuites (besides such as attended the Queenes Majestie) walking at noone day. That within a shorte time ther had been above fowrescore preists and Jesuites delivered out of prison and sett at large, some after they had been condemned of high Treason and some before. That ther was resident heere a *Nuntio* or agent from the Pope.[4] That divers went as ordinarilie and frequentlie to masse to Denmark howse and St. James and to the Chappels of forraigne Ambassadors as to any church in London. That the papists had new hopes therbie and the Protestant partie iealousies, feares, and discouragements. That the 60,000£ promised to have been lent by the cittie of London, for the paiment of the Kings armie and the releife of the Northren Counties had been staied because of the saied Goodmans Reprive, with some other reasons of lesse moment. For all which they should desire the Lordes of the Upper Howse as before to intercede with his Majestie that the saied preist or Jesuite might bee executed, and that some speedie course might bee used for clearing the kingdome of the residue of that brood.

f. 172a] Then Mr. Glynne delivered in a paper or writing conteining some fowre folios which was intituled much to the effect following, Motives for a contribution from the Catholikes to the Kings Northren expedition.[5] It was delivered to him by one Mr. Robert Reynolds a member of this Howse. It was conceived to have been framed by Sir John Winter[6] the Queenes Secretarie a papist, in the yeare 1638 when the King made his

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to discover suche instruments as in suche a time dare intercede with his Majestie for the discharge and replevin of a Preiste." Peyton, f. 76.

[3] 27 Eliz. c. 2, *Stat. of the Realm,* IV, 706-708.

[4] Rossetti. About the papal nuntios see A. O. Meyer, Charles I, and Rome, *Am. Hist. Rev.,* XIX, 13-26; Berington, *Memoirs of Gregorio Panzani* (1793); *The Pope's Nuntioes* in Somers's *Tracts,* IV, 50-57; Clarendon (Macray ed.), I, 195, 233 n.

[5] The four folios were the Queen's letter, the letter of Sir Kenelm Digby and Mr. Montague, copy of the letter sent by those assembled in London to every shire, and the names of the collectors for gathering the Recusants' money. These may be found in Nalson, I, 741-744; Rushworth, IV, 160-163; *D.O.* 23-30.

[6] "Sir John Winter, the Queenes Secretarie conceived to have penned it, and therefore it was ordered hee should bee sent for." Peyton, f. 76.

first expedition into the Northren partes against the Scotts. The summe of it was that the Superior of the preists or Jesuites of England tooke upon him as a Father of the church to perswade the papists of England, whome hee cals ther Catholikes, to contribute at least the tenth parte of ther estate. That this was a Catholike cause and they weere to contribute to it as Catholikes. And that this was done for the Queenes sake, and to advance the Catholike cause; and that they should soe ingratiate themselves into his Majesties favour by it, as they did hope for a suspension of the penall lawes against them and a freedome from informers: with many other particulars to the same effect.

Divers spake to it. I moved that it was no new thing to see a secret Hierarchie of a Popish church in England. That in Queene Elizabeths time the great question and dispute was betweene the Jesuites and Secular Preists which of them should have the Superior in England to bee named out of ther order. In Ireland at this day ther is an absolute Hierarchie of Bishopps, parsons and Vicars, all being secret and titular; soe as the Irish papists are faine often to pay ther tithes double, and perhaps some did soe in England, but I did not conceive that ther was a compleate goverment of titular Bishops heere: although obedience in the present motives bee inioined from a Superior. I conceived that these motives did conteine in them matter of great and dangerous consequence. For wheereas as his Maiestie by his publike Manifesto hath declared that this was neither a cause of religion nor a nationall warre. These motives doe perswade the papists to give to this expedition meerelie as Catholikes as if it weere a Catholike warre: by which great dishonour redounds to his Majestie and iealousies and suspitions are bredd in the hearts and heads of his Majesties subjects. Besides heere is a calumnie and aspersion alsoe laied upon the second person in the realme; as if these motives had proceeded from her contrarie to what the King had declared; and that this warre did tend to the advancement of Poperie. I therfore conceived the matter to bee of great waight, and that it required our further disquisition that wee might sift out the bottome and ground of it.

Then Mr. John Moore[7] one of the Burgesses for Leirpole in the County of Lancaster enformed the Howse that ther had been collectors appointed in that Countie; and that one of the Romane Catholicks ther complained to him that hee was greatlie oppressed by the paiment of that contribution. And divers others named Collectors in severall shires. And it was alsoe suggested; that Sir John Winter the Queenes Secretarie had a great hande in this busines. That Sir Kenelme Digbie Mr. Walter Montague (the Earle of Manchester Lorde Privie Seale his second sonne) Sir Basil Brooke and f. 173a] Sir Henry Bodingfeild weere principall collectors or agents[8] in the collecting of the saied monies or receiving and disposing them: and therfore it was moved that they should bee sent for, to the Howse speedily.

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[7] This is the John Moore of Liverpool whose notes of the debates in Commons we shall be quoting from Feb. 23 on.

[8] "Sir Kenelme Digby, and Mr. Wat: Montague were said to bee Treasurers generall

Then the woman touching the accusation of Occone the Irish Jesuite for saiing the Irish armie was provided to subdue England, and that hee would kill the king with his owne hande was brought to the barre; but being asked what shee had to say further then shee had formerlie witnessed, shee answeared shee could say nothing moore then shee had witnessed and soe shee was dismissed.

Then Mr. Kirbie one of the Knights for Lancashire reported,[9] that hee had sent downe the order for inditing of Recusants ther at the Sessions held since Christmas last; and that hee understood that ther had been 15000 indited in one hundred ther, called Amoundernesse hundred; being not the largest hundred in that Countie:[10] with the report of which great number the Howse it selfe was much startled: and hee added that one Sir William Gerrard whose howse in that Countie was called the Brynne,[11] was collector of the foresaied Popish contribution within the same countie.

As wee weere debating of sending upp a message for a free conference to the Lordes; about the foresaied heads brought in by Mr. Glynne this morning; and after the Clarke had read the saied heads publikelie out of a paper Mr. Glynne gave him; wee understood ther was a message come from the Lordes.

Soe the Serjeant went with his mace and according to the usuall manner brought into the Howse Mr. Justice Foster (one of the Justices of the Common pleas) and Sir John Bankes knight the Attournie Generall; and the saied Mr. Justice Foster, saied, That the Lordes did desire a Conference with this Howse by a Committee of both Howses in the painted chamber presentlie touching the treatie of the two kingdomes, if it might stande with the conveniencie of this Howse. Soe the messengers being awhile withdrawen they weere againe called in; and the Speaker tolde them, The Howse had considered of ther message, and would give ther Lordships a

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to receive the Collections and they likewise ordered to bee sent for; with others named to bee collectors in severall shires." Peyton, f. 76.

"They [Sir Basil Brooke is included] have confessed their collecting of contribution from the Papists of England to the King, against us: this day they are to appear again; it is thought it will lie heavie on them all." Baillie, I, 295.

Nalson (I, 738) adds the name of Henry Birket, whom Rushworth (IV, 157) calls Becket.

[9] Preceding this report, Peyton (f. 76) gives a speech by Strode as follows: "I desire it may bee observed, how forward the Cleargie were alsoe at that time to advance towards the Scottishe expedition great summes of money, as well as the Papists did: whereas now to effectuate a pacification noe suche motions appeare, and wee heare nott any thing of them."

[10] "Mr. Kirby said, That in one hundred in Lancashire (there being butt 6 in the whole shire) there were 15000 Recuants." Peyton, f. 76.

[11] Third baronet of a great Catholic family. Sir William later became governor of Denbigh Castle for the King. Baines, *History of the County Palatine and Duchy of Lancaster* (ed. Crosston, 1891), IV, 378.

meeting presentlie as was desired. Then they being againe withdrawen the Howse named Mr. Treasurour and some five or six others to bee reporters.

I went along to the painted chamber with divers others, but before wee gott thither all the convenient places almost weere filled upp with strangers that weere not of the Howse.

The Earle of Bristow (after a shorte introduction by the new Lord Keeper Sir Edward Littleton knight late Lord Cheife Justice of the Common pleas) saied, That hee was now commanded againe by the Lordes Commissioners to give the Howse of Commons an account of what had passed in the treatie of the two kingdomes since the vote passed in the Howse of Commons, that wee should affoord a freindlie releife to the necessities of the Scotts, and that wee would in due time take the measure and manner into our considerations. The saied vote was read by the Lorde Paget with the answeare to it which the Scottish Commissioners gave in Jan. 26, 1640, which was in substance as followeth. Viz. They did receive with all thankefullnes the kind resolution of the Parliament of England concerning ther 6 demand; and they hoped that the kingdome of Scotland, would upon all occasions expresse ther respects for it. They desired that wee would with all convenient speede consider of the proportion wee would give: in which they did desire the wisedome and Justice of the Parliament of England, to consider that ther enemies amongst us weere the Prelates and Papists, who they desired might beare the greatest f. 174a] share of what should bee allowed them. Then the Earle of Bristow stood upp againe and saied, that after himselfe and the other Lordes Commissioners had received this answeare from the Scottish Commissioners; they desiring noe time might bee lost did propound to the Scottish Commissioners to proceed with the treatie during the time the Howse of Commons should debate of the particular summe to bee allowed, of the meanes how to raise it, and the time when:

And soe the Lorde Paget did againe stand upp and read the saied proposition made by our Lords Commissioners to the Scottish Commissioners, and ther answeare viz. They did desire to proceede to the conclusion of the other articles as much as ther Lordships but did first desire that the certaine summe might bee pitched upon by the Parliament of England; that soe they might bee able to give some satisfaction to them that had sent them. And the summe being once agreed on, they would proceede to the treatie of the other articles whilest, the Parliament of England did deliberate of the meanes how to raise it, and the time when to pay it; hoping that it should bee paied within such a time as it might proove an usefull releife to them: and they shewed lastlie that they did desire nothing moor then a firme and setled peace betweene the two kingdomes.

This paper being alsoe read by the Lorde Paget, the Earle of Bristow stood upp againe and saied That it had been the use of the Scotts alwaies both in the Treatie at Rippon and heere not to proceede to the treatie of anie new article till the old weere finished and hee doubted not but that if wee did but propose and agree of the summe in certaine wee would allow although it weere not to bee presentlie paied in all or in parte yet hee doubted not but that they would proceede in the saied treatie.

Mr. Treasurour staied awhile with the other reporters to perfect the heads they had taken of the saied Conference; but divers of us that weere at the conference returned presentlie after it was ended. And presentlie upon our returne Sir Gilbert Gerrard was sent away with a message to the Lordes to desire a free conference by a Committee of both Howses, touching John Goodman the Preists execution and touching the proceeding against the other preists and Jesuites heere according to the lawes presentlie if it might stande with ther Lordships conveniencies.

The saied Sir Gilbert Gerrard returned awhile after and tolde us, the Lordes would give us a present meeting as was desired. Soe Mr. Glynne that was appointed to manage the saied conference and such as weere nominated to assist him with the greater parte of the Howse accompanying them or being in the painted chamber before they came, weere present at the saied conference: but I went not because I found that at the former conference had this morning, the convenient places weere taken upp by strangers.

But Mr. Glynne having ther delivered over the same reasons read in the Howse the Lordes desired him and the rest to stay a little till they might retire unto ther owne Howse and advize amongst themselves what answeare to give; which they did accordinglie.

This departing of the Lordes gave occasion to many of the Howse of Commons ther present to returne backe to us that yet remained in the Howse, bringing worde the Conference was ended: and therupon the Speaker resumed his chaire and the mace was laied upon the Table; and wee fell to the agitacion of businesses for awhile which wee could not doe during the continuance of the Conference: and therfore assoon as wee had received better information of the truth, the Speaker declared all wee had done to bee void: and[12]

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[12] D'Ewes breaks off abruptly. The only independent account giving business in the House following what is recorded here is C.J. II, 74. Peyton (f. 76) gives the following brief mention of a meeting of the Committee for Grievances, that Mr. Gage said, "That the house cannott passe any Judiciall Act: and therefore are nott to award Costes ect."

Earlier in the proceedings of the day, Rushworth (IV, 158) inserts the following, taken from *D.O.* (22), where it reads: "It was reported in the House of Commons, that there were 52 families of Norwich that went to New England by Bishop Wrenns pressing their conscience with illegall oathes, cermonies, observations, and many strange innovations." (Though *D.O.* has this wrongly dated the 26th, the day of the week given there is correct.) The following from Thomas May's *History of the Parliament of England* (56) bears on the same subject: "For many tradesmen (with whom those

f. 175a] January 28 Thursday 1640.

Mr. Walter Mountague being then called in[1] spake nothing so fullie to the busines as Sir Kenelme Digbie had done: but saied hee mett amongst others after his Majestie had desired a contribution from those of the Romane religion in England and ther debated of the motives to perswade others to give. That a certaine number of gentlemen weere appointed in severall counties to bee collectors: and that some considerable summs weere raised. But that Seignior Con the popes Nuntio undertooke it or levied it, hee knew nothing.[2]

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parts abounded) were so afflicted and troubled with his ecclesiastical censures and vexations, that, in great numbers, to avoid misery, they departed the kingdome; some into New England, and other parts of America; and others into Holland."

[1] On a separate paper D'Ewes gives the following for this day, omitted from this account.

"The petition of Meredith Scruggs grasier and others touching an offence of selling cattle before the time limited by the statute de a° 5° E. 6. cenfriday [?]. 25 Jan. 15 Caroli fined in starre chamber an exorbitant summe, wheereas the fine is expresse in the statute.

"A petition of some uniustie troubled at the Counsell table for the late election of the knights of the shire in Northamptonshire at the last Parliament.

"A peticion against Sir Kenelme Digbie for perverting the yong Earle of Downes in Ireland from the protestant Religion to Poperie. Divers spake to it adiudging it to bee a great offence and Sir Gilbert Gerrard conceived it to bee high Treason etc.

"Soe Sir Kenelme Digbie was called in upon this.

"After Traquarres comming the Kinge desired to have said Judges and Inns of Court examples to others.

"First begun in London etc., but since soe small etc as ashamed to present it etc soe to passe it into cuntries. The Popes nuntio Seigneur Conn undertooke to convey this by motives in the Queenes name and soe motives hee supplied and especially that these charges by law weere insupportable this a means to gett the Kings favour and to lessen that burthen.

"Hee named named Mr. Montague Mr. Foster and others that weere imploied in this busines that ther severall gentlemen imploied in severall counties.

"Sir Henry Bedingfeild was named for a Collector of Norfolke but whether hee held and executed it hee knew not. Saied himself was named as Generall Collector but hee to avoid the trouble excused himselfe and soe th [*blank*]

"12000£ paied into the exchecquer and some 700£ to Secretarie Windebanke." Harl. 165, f. 83 *verso*.

[2] "Sir Kenelme Digby, and Mr. Montague were examined about the Instructions, framed to all the Catholiques of England to encourage ther contribution to the Kings expedition into the Northe, butt the framing of the Instructions, they bothe did lay upon Mr. Con the Popes agent. Mr. Montague denied that hee knew of anie Superiors of the Catholiques in England." Peyton, f. 76.

According to Rushworth (IV, 164), Digby made the following statement regarding Con: "I had but little Correspondency among the Catholicks of this Kingdom. There was a gentleman that did take upon him to supply that care of mine; and that was Signieur Con . . . and meetings were generally kept at his house, in order to the advancement of this business. He also took upon him to name the persons in every County who should be the Collectors of the Money . . . Other motives there were, which were drawn by Signieur Con which I was not acquainted with; but he told me, he had sent down such Motives and Instructions as he thought were fit Inducements upon that Occasion."

Sir Walter Montague acknowledged that the "whole transaction of the business was at Signieur Con's House." *Ibid.*

After Mr. Mountagues withdrawing as some members weere speaking to the busines, one Best a kentishman gott within the doore and soe was called to the barre, and kneeling ther awhile was bidden to stand upp; hee was at first suspected to bee a papist, but that being reasonablie fullie excused and cleared; hee was sent out and Sir Robert Pye a member of the Howse being a Justice of peace of Westminster was sent out to examine the saied Best, and to see him take the oath of supremacie.

Then wee fell into a debate touching that which Sir Kenelme Digbie and Mr. Walter Montague had witnessed. It was observed that they had answeared subtlelie and warilie, and it was wished that this busines might bee moore thorowlie sifted into.

Mr. Hamden moved that some gentlemen might goe upp into the Committee chamber to prepare some questions which the Speaker might putt to them: which was allowed by the Howse, and himselfe and divers others weere appointed to withdraw and prepare the same in the Committee chamber.

Sir Robert Pie being returned shewed, that the saied Best came into the Howse meerelie through ignorance; and soe it was wished hee might bee discharged.

Then Mr. Treasurour made a reporte of the conference wee had with the Lordes yesterday much to the same effect as it is ther sett downe,[3] onlie those papers which the Lorde Paget read at the conference the clarke of the Howse read heere.

As the reporte was making, The Lorde Falkland and Mr William Strode being two of them that weere appointed to withdraw with Mr. Hamden into the Committee chamber to frame the saied questions came and moved that they might have time to prepare the saied questions against too morrow morning, and that the saied Sir Kenelme Digbie and Mr. Walter Mountague might bee inioined to attend the Howse to morrow morning: which was granted accordinglie, and soe the two persons aforesaied weere againe called into the barre and enioined to attend this Howse too morrow morning.

After Mr. Treasurour had ended his reporte, hee mooved that wee might fall upon the particular dispute what summe to allow the Scotts at this time or to appoint some other day.

The Lord Digbie moved that the busines was of great waight and that therfore wee should not debate it suddenlie but deferre it till saturday; next in the morning, which was ordered accordinglie.

f. 176a] Mr. Hamden moved that the saied Committee appointed to have sitten in the Committee chamber to draw the saied questions this morning might now sitt this afternoone in the Treasurie chamber at two of the clocke and that some others might bee added to them which was assented unto by the Howse and ordered accordinglie. Awhile after this order made, MR. PYMME beganne the reporte touching the charge against the Earle of Strafford and shewed that all these particulars weere virtually conteined before in the generall articles wee had preferred: and that the worke was long and great to extract these particulars out of the severall depositions and that it had cost much time to perform it; the Committee appointed in it, had sitten upp late and risen early and had finished it but yesternight at nine of the clocke. Everie particular in the former articles was proved fullie except the third which concerned his taking monie out of the Exchecquer of Ireland,[4] for the proofe of which the witnesses weere not yet come out of Ireland and they weere loath to stay all the rest which make him fullie guiltie for that alone. Soe hee presented a large paper booke of whole sheetes filed together in which all the saied Articles weere conteined for the Clarke to read: which was conveied to him accordinglie. The former articles weere first inserted againe verbatim into the same; and then followed all the particular articles after; by which in the generall being afterwards printed at large it appeared evidentlie that hee had severallie counseled the King to subvert the fundamentall lawes and setled goverment of the kingdomes of England and Ireland: and to bring in an infinite arbitrarie and tyrannicall dominion, by which the King might doe what hee would and take from the subject what hee pleased. That hee had at severall times and upon severall occasions putt in practice those wicked and traiterous counsels: soe as noe mans person or estate in Ireland was secure: noe iustice could bee had; and all freedome of traffique was destroied by his getting the Customes into his hands of that kingdome and raising them to excessive rates. That hee had perswaded the oppression of true religion in Scotland, fomented the warre undertaken against them and endeavoured to embarke and embroile all the three kingdomes in the same; and in the issue by the Irish armie of papists to subvert the Lawes and liberties of England; with many other particulars which I omitt to insert heere because the articles themselves at large, will bee in everie mans handes. The Clarke beganne to read these articles about eleven of the clocke and ended them after twelve.

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[3] "Mr. Treasurer reported the Conference had with the Lords which was to this effect: That the Scot[c]h Commissioners desired the Parliament to make a Declaration of the proportion of ther kind releife, and for the daies of payments, and meanes to raise it, that may have longer time of advice." Peyton, f. 76.

Then MR. PYMME after the Clarke had done reading the saied articles; saied: That hee hoped all particulars weere fullie proved except the third article, which was omitted for the reason hee had before shewed. They had not observed the order of the former articles, but tooke particulars as they lay in proofe: hee hoped that they might all bee engrossed by too morrow morning and readie to bee voted in the Howse.

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[4] This charge was not among those presented in the 28 Articles of impeachment, but was the first of the three extra charges pressed on the Lords by Pym on Tuesday, March 23. *A Briefe and Perfect Relation of the Answeres and Replies of Thomas Earle of Strafford* (1647), 4-5.

Mr. Hamden moved, that the Clarke might not give out any copie till the saied articles had been sent upp to the Lords.

Soe it was appointed they should bee ingrost and voted too morrow morning in the Howse.

f. 177a] Post Meridiem.

Divers of the Committee touching Bishop Wrenn of which I was mett in the Court of Wardes: wheere one Mr. Duncon vicare of Stoke neare Ipswich was complained off for many grosse Idolatrous adorations and superstitions: and for deniing such of his parish as came not to the raile, the receiving of the Communion. Hee did confes his frequent adorations to and towards the table or altar sett upp at the East end of the Church and to the sacrament. Hee was not ashamed to maintaine that ther was a relative holines in the Communion table, in the timber of the church and in the surplis. His preaching was full of errors and dangerous opinions, soe as for that cause and in respect of his superstitious actions and gestures divers honest men left his parish, and remooved ther dwellings.

I proposed some questions to bee asked of him, as out of what Jesuite hee learned such distinctions as relative holines in places: and whether hee had read anie such distinction in anie orthodoxe writer of the church of England or in any of our homilies: to which hee made subtle or false answeares.

Then was the case of one Christopher Burwel late parson of great Watting in the Countie of Suffolke heard, who had been uniustly suspended and after deprived: Hee was suspended by Bishop Wrens Commissioners in the yeare 1636: and since deprived by the now Bishop of Norwich Mr. Richard Montague: for not reading the booke of Sportes on the Lords day and for not using the 56 Canon instead of a praier before his sermon. Hee was alsoe pretended to bee deprived for others particulars established by act of Parliament; but hee had not time given him according as the statute requires to consider of it, before his deprivation.

January 29 Friday 1640.

A petition was preferred by Mr. Pymme in the name of John Levet Doctor of the law and Mary his wife touching divers uniust proceedings against him in the Starre-chamber. Soe it was referred to Mr. Prinns Committee of which I was, and divers others weere added [to] it.

Sir Philip Stapleton moved that one Mr. Francis Nevill that was of the Howse the last Parliament had accused Sir John Hotham and Mr. Bellassis at the counsell table for what they saied: upon which they weere committed: soe it was ordered that hee should bee sent for and that his busines should bee referred to the same Committee to which Dr. Levets petition was referred.

Mr. Selden moved that Mr. Sollicitor Harbert being now made Attournie and being noe longer able to attend this Howse desired that a writt might issue out for a new election of another in his place for one of the Burgesses of the Burrough of old Sarum in the Countie of Wiltes, which was granted.

An act for the better ordering of the clarke of the market and the Reformation of waights and measures, read 2da, vice, which after some few motions concerning it, and some exceptions taken to a few passages in it, was committed to severall Committees, and at last it was moved that all that would come should have voice. Sir Walter Earle opposed that objecting that then wee should have severall voices at severall times, and difference of vote. I moved that it was true that it had been soe ordered in a case or two of some extraordinarie moment; that all that would come should not have voice but if all the objections made against it did consist upon that ground they weere of little value; for I had observed when a Committee of threescore or fowrescore weere named as many consisted of that number; the same companie scarce ever sate twice: and therfore I saw nothing of waight in this scruple, but that it might bee ordered that all who would come might have voice.
f. 178a] And it was after a little further dispute ordered that all would come should have voices: and they weere to meete on tuesday next in the Checquer court at two of the clocke in the afternoone.

Then was the petition of divers Marchants of London read touching the Monopolizing of gunnpowder in the making of it, in causing it to bee brought into the tower whence it could scarcelie bee had at anie price, but was raised to 1s 6d when it was for 8d the pound formerlie: with divers other matters of great waight, especiallie that it remained in the Tower wheere the Recordes lay, which if a sparke should but fall weere in danger of ruine. Mr. Cradocke spake first and shewed the great greivance of the subject in this particular.

I moved that this [was] a busines of great concernment and conduced much to the great designe (I meant to subvert us): for that one man in in Surrie ingrossed the making of gunnpowder was an old greivance: but that it was now carried into the Tower and kept ther, this was a new greivance added to the old. For the difficultie was soe great to gett it thence, and the rate and price of it soe high, as divers marchants went often unfurnisht with it; and soe manye shipps weere lost. In the Parliament held in a°. 43°, and 44°, of Queene Elizabeth this was presented to the Howse of Commons amongst other Monopolies and greivances of the Commonwealth. Ther was then a Monopolie of salt named, and a worthie member of the same Howse, saied add but peter to salte and then yow have a great greivance that my cuntrie is opprest withall. It was the speech of Sir George Moore[1] who latelie deceased, being of the saied Countie of Surrie. I shewed further that by the keeping of soe much powder ther in the Tower of London the iewells of the Crowne, the Records kept ther are in great hazard and danger if anie fire should come to the saied powder. And those records concerned all our inheritances. The Arcenall of Venice wheere ther gunpowder was kept, hath been once blowen upp by a casualtie; and soe might the same misfortune happen heere. I advized therfore because ther weere other great businesses of moment appointed for the day, that wee might lay by the dispute of this for the present and appoint some other day for the further debate of it.

Then one MR. EVELING of Surrie[2] being a little galled with what I had saied (for some of his name had long enioied that Monopolie in the saied Countie) stood upp and made a slender defence for the ingrossing of the saied gunnpowder into one mans hande.

But divers spake after him, all condemning this as a most pernicious Monopolie; and some shewed the great oppression and insolencie of those who digged for salt-peter. MR. PERD one of them who spake moved the patent for salt-peter might bee brought into the Howse.

Then they fell upon a new dispute to what Committee this Monopolie it should bee committed; whether to the grand Committee for greivances or to the Committee for Monopolies: and at last it was referred to the Committee for Monopolies, and it was ordered that the saied Committee should meete on Monday next at two of the clocke in the Starre-chamber, and all that would come to it to have voices.

Then MR. TREASUROUR related to us, that the King had commanded him to give us notice to attend him at Whitehall in the banqueting howse this afternoone at two of the clocke: which the Lordes weere ordered to doe accordinglie, concerning John Goodman the preist that was reprived.

Then wee fell into a dispute whether the Speaker should goe along or not: f. 179a] the reason of the dispute grew from hence, because the two Howses weere now ioined together in one petition for the hastening of the execution of the saied Goodman and that the lawes might bee putt in execution against papists preists and Jesuites. And Sir Edward Littleton knight Lorde Keeper of the great seale of England was to speake in the name of both Howses to his Majestie.[3] But it was at last concluded that the Speaker should goe.

Just as wee weere entring into this dispute Sir Robert Rich one of the Masters of the Chancerie and one Doctor Benet weere sent with the same message to us from the Lordes, to attend the King with them in the afternoone at two of the clocke; soe as intruth this message should not have come to us from the King by Mr. Treasurour if it had been well considered: howsoever the Howse concluded the Speaker should goe with us.[4]

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[1] D'Ewes, *Journals of all the Parliaments during . . . Elizabeth*, 646.

[2] John Evelyn. George Evelyn (1530-1603) was the first to introduce the manufacture of gunpowder into England.

[3] Sir Edward's speech is in Rushworth, IV, 158-160.

Mr. Bodvile stood upp and shewed that in the yeare 1638[5] ther was a Commission granted under the broad seale of England to the Earle of Worster and the Lord Harbert his sonne was ioined with him in it, being both papists for the leviing of forces in divers shires in England and Wales wheere great numbers of papists inhabited. And this was done when his Maiestie undertooke his Northren expedition. Sir Thomas Middelton shewed that the Commission extended onlie to six shires, viz. Worster, Gloster Shropshire Hereford Glamorganshire and a sixth shire which hee did not then name. (but hee afterwards told mee it was Brecknock.)

Sir John Clatworthie shewed that the popish armie new levied in Ireland in 1638 consisting of about eight thousand all of the Romish religion, weere to have landed in some parte of those Counties wheere the Earle of Worster was to levie his forces.

Sir John Price shewed further that letters weere sent to all the deputie Leiftenants of those shires from the Lordes of the Councell straitlie charging and commanding them to bee aiding and assisting to the saied Earle of Worster and his sonne in all particulars they should require. That Sir Peircie Harbert eldest sonne of the Lord Powis had in the yeare 1638 bought in the corne round about in the cuntrie; and that hee came in the night season to the magazin of one of the saied six Counties, and tooke out from thence all the armes and the powder of the Countie; and carried it to a Castle of the Earle of Worcesters. And that the saied Earle of Worcester granted out sub-commissions to others for the leviing of the same forces.

Mr. John Moore a Burgesse for Leirpole in Lancashire being a Countie full of papists shewed that about the time in 1638, when the Irish armie was expected to have landed heere, the wealthier papists provided themselves of a greater number of attendants then formerlie; and that shipps weere then pressed at some sea-townes in Lancashire and awhile staied. Others alsoe spake to this matter.

Soe this busines was resented by the Howse as a matter of great danger and consequence; and was therfore referred to the Committee in the Earle of Straffords busines; and the saied Sir Thomas Middleton, Sir John Price and others weere added to it.

Then Mr. Maynard moved that Sir Peircie Harbert might bee sent for as a delinquent. Mr. Hide opposed it. And Sir Henry Mildmay master of the kings Jewelhowse, seconded Mr. Maynard, and saied Sir Peircie Harbert being a papist ought not by law to beare armes or keepe armes, and therfore hee thought the unfurnishing of the publike magazin by night was an offence of soe high a nature; as hee deserved to bee sent for as a delinquent. And it was soe ordered accordinglie.[6]

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[4] The Masters in Chancery were accustomed to carry messages from the Commons to the Lords. Porritt, *Unreformed House of Commons* (Cambridge, 1903), I, 557.

[5] Gardiner (IX, 270) says "in the preceding year." See below, p. 348.

f. 181a] January 30 Saturday 1640.

Ordered that Sir Basil Broke and Sir John Winter the Queenes Secretarie should bee sent for by a warrant of this Howse to appeare heere and to bring in such bookes and papers as they had concerning the collection of the contribution made by the papists of England to the Kings Northren expedition in 1638.

The election of the knights of the shire for Warwicke had been once declared void this Parliament and Mr. Warner the sheriffe fined for it: and now a new petition was preferred declaring the violent uniust and outrageous carriage in the new election, the same sheriffe continuing still in: and having againe permitted his undersheriffe to manage that election, who had uniustlie returned the Lord Compton and Mr. Shugborough; and had putt off Mr. William Combs, that had been formerlie alsoe elected.

Then wee fell into a long and tedious dispute to what Committee this should bee referred; some would have it goe to the Committee of priviledges which was the right place; others would have it goe to the Committee in Sir Lewes Dives petition. I moved that if the petition weere but prooved in anie partes of it, it was a busines of a foule nature and required great animadversion and consideration. For the length of the petition (against which Sir Walter Earle had taken exception) I saw noe iust cause of exception against it, for weere the petition shorter yet the whole matter may come in question and must bee particularlie prooved; and therfore the petition is in respect of the length of it of the better use, because it will direct all things to bee orderlie examined. For the referring of it, I thought it most propper to the Committee of Priviledges; and wheereas the onlie objection was that it would bee long ere it came to bee heard ther, I moved it being a matter of soe great waight and concerning a Countie the Committee for Priviledges might bee appointed to give it the moore speedie hearing: and soe all objections would bee answeared and all sides pleased. And after a little further agitacion it was ordered accordinglie.

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[6] Under this date, on a separate paper, D'Ewes has the following notes:

"Sir Kenelme Digbie being brought into the barr was asked by what authoritie Seig[neur] Con had preferred these motives and by what capacitie hee [*margin torn*] moore then anie other to promote these motives. Hee was sent to [*blank*]

"2. Whether hee the saied Seignior Con came hither as the Popes Messenger Nuntio or agent or by what authorite, and for what purpose principallie came hee hither. Hee was sent as a partie from the Pope to attend her Majestie and to doe all offices touching religion her Majestie should require and to present the Queenes desires to the Pope from time to time.

"3. Why Councellor Rosetto came hither, and if hee came not hither by authoritie principallie derived from the Pope. Hee beleeved hee was cheifelie sent hither by the Pope. If Councellour Rosetto doe not live heere and retaine the qualitie of the Popes Nuntio or agent.

"Mr. Walter Montague came next in after Sir Keneline Digbie was withdrawen and was [*blank*]. Saied besides what Sir Ke. D. had saied. That he beleeved that Con was sent as a person to attend her Majestie from the Pope. 2. Ther are many things in exercize of the Queens religion that doe require an Intelligencer with the Pope, and to attend her upon all occasions to give the Pope an Account of her desires.

"Divers moved about ther relation that ther was enough in it to discover great machinations against religion. And divers proposed new questions that might bee askt them. I moved that nothing was moore commonlie reported etc. K.D. in orders but whether or not etc. in the shorte. For Mr. Montague long at Rome etc.

"Soe after dispute Mr. Pymme moved that Mr. Montague might bee called in againe and asked touching the Earle of Worsters comission etc. And soe hee was etc. called in.

"The further examination of these two persons referred to the Committee last appointed to drawe the questions to be asked them to meete too morrow in the Checquer chamber at two." Harl. 165, 82 *verso*-82. *Cf.* App. B, p. 545.

Then wee fell upon the great busines of the Earle of Straffords charge which should have been entred upon yesterday, and the new articles which weere in number 28 being added to the former seven wee had before preferred against him, by which wee impeached him of high Treason weer now brought in ingrossed in parchment. They had been before read out of the paper booke on thursday last the 28 day of this instant Januarie; but not voted. It was therfore the worke of this day to read them over againe particularlie and to vote each of them singlie. When the Clarke was beginning to read ther arose some dispute, whether they should bee read out of the paper booke or out of the parchment in which they weere engrossed: but it soon resolved that they weere to bee read out of the saied paper booke and soe to bee voted. Then the Clarke having read the title of them; the Speaker put that to the Question and soe wee voted that, the same should bee the title. Then weere the first seven generall Articles read, without anie further question or vote. But when the first Additionall or new Article had been read (all which new articles did lay downe particular charges gathered out of the depositions that had been taken) SIR JOHN STRANGWAIES stood upp and moved that seeing hee was to give his assent to the saied charge, hee desired to know the witnesses that prooved the same charge; by which meanes his conscience might bee satisfied, this being matter of bloud. SIR GUY PALMES seconded the same motion,[1] though not immediatelie after Sir John Strangwaies had made the same. But it was severallie answeared that wee weere not Judges of these crimes but did onlie impeach the saied Earle of Strafford: and wee had trusted the Committee with the managing of it, and they had affirmed all particulars heere to bee abundantlie prooved.

f. 182a] Soe the Speaker put the Question upon the first Article viz. As manye are of opinion that this shall bee the first Article for the further impeachment of Thomas Earle of Strafford by the Commons of this realme let them say I. And soe divers cried I, but not two partes of three of the whole Howse: which made the Speaker although none saied No, when hee badd them who weere of a contrarie opinion to say no after hee had putt the Question upon the first three articles to desire the howse all of them to say I or no. After which the I's weere many and loud. But the Question hee putt to most of the ensuing articles was a little shorter as followeth, As many as are of opinion that this shall bee the second Article, for the further impeachment of Thomas Earle of Strafford let them say I. The new Articles weere as I have shewed, 28 in number, and did sett foorth all his wicked practices in this Kings raigne in Yorkeshire when hee was president ther, in Ireland whilest hee was first Deputie and after Lord Leiftenant ther, and lastlie within some two or three yeares last past heere in England; being most of them treason if not all: and to the same effect as I have sett downe on thursday last foregoing. Then the conclusion being read alsoe which was affixed to the saied new Articles that alsoe was voted to bee the conclusion, allowed and approved by us. And then the Speaker taking the parchment in his hande in which all the saied Articles with the Title and conclusion weere ingrossed, saied, As many as doe allow these articles ingrost for the further impeachment of the Earle of Strafford let them say I. This being voted; the last question hee put was, As many as are of opinion, that these articles thus engrost shall bee sent upp to the Lordes.

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[1] On the back of an old letter D'Ewes has scribbled some notes on this day and erased them, but one sentence tells a bit more: "Sir John Strangwaies moved to know the proofes and Sir Guy Palmes. Sir Henrie Cholmelie and Sir Henrie Anderson to the contrarie." Harl. 165, f. 83 *verso*.

It was past twelve of the clocke when wee weere thus farre proceeded; and yet the Howse desired to send upp to the Lordes presentlie and to loose noe further time. Whilest the Articles weere in reading Mr. Pymme did at the end of everie Article declare by whose testimonies in generall the same was proved though hee did name noe persons in particular: and therfore the Howse pitched upon him to manage the Conference: and upon Mr. Hamden to goe upp to the Lordes and desire a Conference with ther Lordships by a Committee of both Howses; presentlie, for the further impeachment of Thomas Earle of Strafford of high Treason, if it might stand with ther Lordships conveniencie. As Mr. Hamden was going, Mr. Pymme desired to stepp out and retire himselfe to consider of somewhat to bee spoaken by him at the saied conference and soe hee did. Then Mr. Maynard was appointed to assist Mr. Pymme and to read the saied Articles at the same conference. And soe Mr. Hamden went away with the same message.

After his departure Mr. Reynolds mooved, that Mr. Morgan a member of this Howse sending Thomas Hunton his servant into Brecknockshire; and giving him a protection; one Roger Williams[2] caused him to bee arrested; and when hee shewed him his protection the saied Williams saied that hee neither cared for the saied protection nor for him that made it.

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[2] Guillim. C.J. II, 76.

Soe it was ordered that the saied Williams should bee sent for as a delinquent.

My Lord Monson being an Irish Viscount and a member of the Howse complained that John Bonnet and Thomas Mastwicke, had during his absence now and his attendance in this Howse plowed upp his warren in the cuntrie. And this was conceived to bee a breach of priviledge: and it was ordered that the parties should bee sent for as delinquents.

Soe Mr. Pymme being come into the Howse againe went away to the conference and after a shorte introduction by him made, Mr. Maynard read the saied articles: and then Mr. Pymme concluded with a pithie speech, shewing the hainousnes of My Lorde of Straffords crimes concluding, that hee doubted ther Lordships might rather imagine upon ther now hearing of them; that the crimes therin conteined would rather seeme to be the f. 183a] actions of the Minister of the Great Turke or some other Mahumetan Prince, then of a Christian Monarke and a Gratious King.

Betweene one and two of the clocke in the afternoone the conference ended, and Mr. Pymme returned to the Howse, and Sir Henry Mildmay saied that hee had performed it soe well as hee deserved thankes of the Howse, But hee having modestlie excused himselfe; and saied hee would hasten the Articles for the charge of the Archbishop of Canterburie. And soe the Howse rose.

Post Meridiem.

In the afternoone betweene two and three of the clocke divers of the Committee in Mr. Prinns busines of which I was mett in the checquer chamber and ther wee had an estimate given us of Mr. Burtons damages. First that his living or Rectorie of St. Matthews friday streete London was worth 60£ per annum at the least; and the howse belonging to it worth 16£ per annum. His lecture hee maintained in the afternoone worth 30£ per annum. This hee had been deprived of ever since the yeare 1636, besides his imprisonment iournies mutilation of his eares and other losses. It was proved that Dr. Bastwicke upon the suite against him in the high Commission Court, sold 80£ per annum lande of inheritance lost his practice ever since valued at 200£ per annum at the least, besides his like sufferings with Mr. Burton.[3] Then wee heard the greatest parte of Richard Goldburnes cause prooved, how hee dwelling at Chester and visiting Mr. Prinne and riding out of towne with him when hee passed through Chester to Carnarvan goale in Wales was cited, proceeded against and sentenced therfore in the high Commission Court at Yorke. This lasted long but was not ended. Then all being withdrawen wee voted, That Dr. Helyn was a delinquent, in having been a promoter and furtherer of the suite against Mr. Prinne in the Starre-chamber and having since preached and written in his printed bookes libellouslie against him Dr. Bastwicke and Mr. Prynne.

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[3] In notes scribbled on a letter, D'Ewes adds this item: "Mr. Blanchard the Messenger was questioned by what authoritie hee received and demanded such fees. Hee saied hee had noe patent. Hee was messenger of the chamber to attend the high commission at Yorke." Harl. 165, f. 83.

February 1, Monday, 1640.

MR. PURFEREY moved that wheereas the petition of the freeholders of Warwickshire was on saturday last referred to the Committee for priviledges; which petition concerned the late undue election ther; and that now Mr. William Combs who had wrong in the saied election had likewise preferred a petition for the same cause, and therfore hee desired it might bee referred to the same Committee which was granted; as alsoe that the sheriffe should bring in the bookes or roules for the Polle in which ther names that gave ther votes weere entred.

MR. ARTHUR GOODWIN moved that a paire of organs had been sett upp in the parish of Walstede[1] in the Countie of Buckingham; and that now Sir John Lambe, Sir Nathaniel Brent Doctors of the Law and Dr. Rodes[2] had made an order that the parish should furnish out and pay 50£[3] per annum to an organist. Heereupon the saied three Doctors weere ordered to bee sent for by Mr. Speakers warrant, to answeare heere by what authoritie they laied such taxes on the saied parish.

Cornelius Neue had caused Mr. Wheeler a member of this Howse to bee served with a subpaena out of the Chancerie; and it was therfore ordered the saied Neue should bee sent for as a delinquent for the breach of the priviledge of this Howse.[4]

Upon a petition preferred against a scandalous minister, of Panswicke[5] in Essex, it was ordered that the Committee for scandalous ministers should bee revived againe which had with other Committees been laied downe by order of this Howse; and that they should sitt too morrow sennight in the Court of Wardes at two of the clocke. The petition was verie foule, that hee was a common swearer and alehowse haunter, had baptized a childe in an alehowse; and spoaken scandalouslie against the Parliament: and it was referred to that Committee.

f. 184a] MR. MAYNARD made reporte from the Committee of priviledges that Mr. Earles election for the Burrough of Warham was good. And soe it was resolved alsoe upon the question in the Howse: but not that hee should sitt in the Howse presentlie till the saied writt weere returned and amended by the late Mayor that made the former returne.

Then it was debated, whether wee should fall upon the debate of the

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[1] Waddsden. C.J. II, 76.

[2] Roane. *Ibid.* Rone. Peyton, f. 78.

[3] Peyton (f. 78) says 15£. *Cf.* below, pp. 385-386.

[4] *Cf.* Scobell, *Memorials of the Method and Manner of Proceedings in Parliament* (1670), 88.

[5] Patiswick. C.J. II, 76. "As also Chigwell Petition." Rushworth, IV, 164.

Ministers Remonstrance, the Kings armie, or the Scottish Demands. The most weere of opinion that wee should read the Remonstrance. SIR JOHN CULPEPPER moved that wee might beginne with the Scottish Demands. I seconded that motion though I spake not presentlie after him: and shewed; That it was true, that the matter of Remonstrance was appointed for this day to bee read and debated, and soe was the debate for the Scottish busines appointed on saturday last. Wee then deferred the treating of it for another great occasion: but our deferring ought to take it away. I conceived the Remonstrance to bee of great consequence but the Scottish busines of greater. For Peace is the Mother of Counsell but, if wee settle not this affaire, our other debatements may receive an untimelie interruption. The generall wee have alreadie voted and now wee have onlie three particulars to handle. First the summe to bee given. 2, The meanes how to raise it. 3, The time when to pay it. And in the debate of the meanes how to raise it wee may consider of the papists and scandalous clergie what shares they should beare. And I desired therfore that the Howse might bee resolved into a grand Committee that wee might fall upon the debate of the saied three questions, not doubting but that the particulars would receive as happie an issue as the generall had done.

But after further agitacion it was concluded wee should proceed with the remonstrance but with ill successe, for MR. MARTIN moving that such as had taken the new oath might according to the Justice of the Howse withdraw;[6] Dr. Edon and Dr. Parrie[7] being commissionaries or chancellors under Bishopps, confessed they had taken the same oath; but yet desired to sitt, during the debate of the same question to answeare all objections: which busines tooke upp long debate.

During the dispute of this question MR. HIDE moved that some message might bee sent upp to the Lordes to desire, That ther may bee an examination of the Judges and other witnesses speedilie in the presence of some members of this Howse, concerning the charge against the Lorde Finch, and that ther Lordships would take such course for the apparance, and speedie proceedings against the saied Lorde Finch as in ther grave wisedomes shall seeme fitt wherin The saied Mr. Hide shewed it was thought fitt this examination should bee dispatched before the charge went upp against the Judges which was now almost readie. After which saied, by the same Mr. Hide, hee was nominated by divers to goe upp to the Lordes with the same message. But hee excused himselfe being a gowneman; in which SIR ROBERT PYE seconding him, was himselfe nominated to performe that service; and when the order was written and delivered him hee went to the Howse doore to goe out; but ther went but one member along to accompanie him, soe hee came backe againe and tooke his seate: the Speaker shewing, that at least tenn[8] members of the Howse must accompanie such a messenger.

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[6] "It was conceived that some in the house had taken the Oathe in the late Canons which binds them nott to consent to the alteration of Churche government as now it standes, and therefore nott fitt Judges of the cause." Peyton, f. 78.

[7] "And Dr. Chaworthe." Peyton, f. 78.

Then the unseasonable dispute proceeded touching the saied Doctors being excluded from the saied debate; and from the hearing of the same f. 185a] Ministers remonstrance. The arguments of those who spake for ther continuance in the Howse weere, that ther weere yet noe crimes laied to ther charge. That it stood with Justice of the Howse to heare what they could say. That the oath they had taken was either unlawfull and soe void: or else taken with reservation, to last soe long onlie till the King or the Parliament should order the contrarie.

But this was fullie answeared, That not onlie in respect of the oath they had taken, but for ther severall crimes alsoe it was fitt they should withdraw. And that it stood with the Justice of the Howse that these men should bee absent when ther owne cause was in agitation as well as Monopolizers and proiectors.[9] And that for the oath ther was noe reservation annext to it; that for ought wee knew to the contrarie they still thought it lawfull, and soe weere not fitt to sitt in the Howse to question the goverment of the Church, which they had sworne to maintaine.

During this agitation Sir Robert Pie stood upp and desired, that some might bee appointed to accompanie him in the performance of his message which the Speaker moved to the Howse and soe some tenn or twelve went with him. I never saw before but the number ordinarilie of thirtie or moore went.

Hee staied a prettie while and returned a little before eleven of the clocke, but the Howse was then still in agitation of the same question touching the saied two[10] Doctors withdrawing. Which agitation was awhile laied aside, till Sir Robert Pie aforesaied had made reporte of the Lordes answeare to our saied message: which was that ther Lordships granted all that wee desired. Then others proceeded to the further discussion of the former unhappie question touching the saied Doctors withdrawing; but at last the Howse being wearie of the debate laied it aside, upon Mr. Pymms motion, hee intimating that hee hoped the saied Doctors seeing the sence of the Howse would in ther owne discretions forbeare the Howse whilest this matter was in agitation.[11]

And soe wee past over the first head in the Ministers remonstrance touching matter of Doctrine corrupted, and passed to the reading of the second head touching the corruption of matter of Goverment in the Church.[12] In which soe many irregularities and wicked oppressions of the Bishops and ther ministers which weere numbred to bee at least 10,000 weere sett foorth against godlie ministers and godlie men espetiallie as it moved all mens hearts that had anie religion to a detestation of them.

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[8] But *cf.* Porritt (I, 561).

[9] "When any Complaint is made against a Member, or Exceptions taken to anything spoken by him (after he hath been heard to explain himself . . .) if the House be not satisfied, but fall into Debate thereof, such Member is to withdraw." Scobell, *Memorials*, 71.

[10] The three, according to Peyton.

[11] This they evidently did. "And withdrew themselves into the Committee Chamber." Peyton, f. 78.

That head being read MR. PYMME moved that wee might appoint another day for the debate of this busines. And then wee fell into dispute what day should bee appointed for that further debate and some named too morrow.

I stood upp and saied, That the particulars the Remonstrance had sett foorth weere of great moment and consisted of neare fowerscore heads, and I wished that wee might consider of it with all due care. But ther weere two great businesses now before us; which I might compare to two howses a man had standing together. The one howse was on fire. The other an old rotten howse fitt to bee pulled downe. The matter touching the Scotts demands and the Northren partes is like the howse on fire, which wee should first quench; and then in due time fall upon the pulling downe of the old rotten building, and repairing it. I therfore desired wee might handle the Scottish demands too morrow: and then on wednesday next goe on with the rest of the Remonstrance and soe argue it till it weere dispatched. For I f. 186a] feared that neither a day nor a weeke would dispatch this busines, or suffize to agitate soe many particulars of moment as the Howse had now in agitation upon the reading of one parte of the Remonstrance.

SIR JOHN CULPEPPER and SIR ROBERT PIE seconded my motion to have the Scottish demands first treated offe; and then the Remonstrance, to bee read in the other parts therof and debated.

They spake not presentlie after mee, but intermixing with others who spake to have the remonstrance first goe on. MR. PYMME and others moved that the petition and remonstrance might bee committed to a spetiall committee; others moved that they might bee referred to the grand Committee of Religion.

Just as the busines was neare a conclusion and the Speaker was putting the question; the LORD DIGBIE stood upp and shewed amongst other particulars that divers Ministers whose names weere sett to the petition did disavow the Remonstrance. This hee spake a little before one of the clocke, and this putt us into a new dispute; and it was thought fitt that those ministers that disavowed the saied Remonstrance should bee sent for to appeare in this Howse to shew ther reasons of ther saied disavowing.

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[12] It was probably at this point that there took place the colloquy between Grimston and Selden. See Rushworth, IV, 165; *Cal. St. P. Dom. 1640-1641,* 450; and *Master Grimstons Argument concerning Bishops with Mr. Seldens Answer* (1641). It will be noticed that the last two give a final retort of each speaker, not to be found in Rushworth. The dating is not easy. The *Calendars* make the speech Feb. 1, but may easily be following Rushworth, who has such an inconvenient habit of putting matters in wherever he thinks they might fit fairly well. But in this case he is probably right. *D.O.* (33) has an independent account of Selden and puts it on Jan. 31, but since Monday, Jan. 25, *D.O.* has been one day late in the month, although right on the day of the week. He makes Selden speak on Monday, and Monday was Feb. 1.

I moved that it stood with the iustice of this Howse not to proceed in this busines till the saied ministers had been called and heard. For the Remonstrance was framed out of severall petitions or complaints sent out of severall Counties; soe as it was impossible for those ministers which lived in one Countie to know the particular greivances of another Countie. In *toto composito* the Remonstrance was true as being drawen out of severall materials: and in *sensu diviso* it was true as it concerned everie particular man for soe much of it as was drawen out of ther complaints. If therfore they disavowed onlie actions of which they weere ignorant others could assert them; and this disavowing did noe way make the Remonstrance invalid: but if they did disavow anie particular in the substance of it; by whomesoever it was complained of this and noe other was a true disavowing of the Remonstrance.

Soe after the same had been further agitated it was agreed that the saied ministers should bee sent for that disavowed the saied petition to bee heere too morrow morning: and it was ordered accordinglie, when it was neare two of the clocke, that as many alsoe of the saied ministers as would avow the saied Remonstrance should appeare alsoe if they would.

Post Meridiem

In the afternoone divers of the Committee in Mr. Prinns busines of which I was one mett betweene two and three of the clocke in the Dutchie Court. Ther wee had the remainder of Richard Goldburnes cause which had been formerlie heard upon [*blank*] the [*blank*] day of [*blank*][13] His fine was proved out of the sentence of the Court, as was alsoe Peter Leighs who iointlie petitioned with him. Ther fines weere estreated into the checquer, and they paied above 200£ besides great bribes given to the Archbishop of Canterburie and his servants to have an end made.

Then was the petition read of Thomas Crosse and Thomas Welchman, who weere sent for and fetcht into the Court of High Commission at Bishops Thorpe neare Yorke for the same supposed crime Mr. Goldburne had suffered in, viz. for visiting Mr. Prinne at Chester in his passage to Carnarvan Castle.[14] But these two persons after much cost vexation trouble and attendance, having answeared upon oath that they never saw Mr. Prinns face weere dismissed. Then was the petition of Katherin Fletcher the widow of William Fletcher read; who had likewise been f. 187a] uniustlie vexed and molested for the same cause. Then all being withdrawen wee beganne to debate of the votes wee should passe in this cause; and it was urged that Peter Leigh aforesaied besides his fine had lost 400£ in his goods, and was damnified 1000£ in his creditt. Wee first voted that the sentence given against Richard Goldburne by the high Commissioners at Yorke with all the proceedings therupon and execution therof are against law and the libertie of the subiect and ought to bee declared void. And wee 2dly voted that the saied Mr. Goldburne ought to have reparation for all his damages received. The same questions weere voted for Peter Leigh. For Thomas Crosse and Thomas Welchman who weere dismissed; wee onlie voted that they ought to have damages for ther uniust vexation and damages; by the saied high Commissioners that gave the saied sentence: which last clause, to have reparations against the saied high Commissioners was likewise added to the other votes in Mr. Goldburnes case. And the same vote that had past for Thomas Crosse did passe for Katherin Fletcher the wife of William Fletcher deceased; which William had been vexed in the same manner, as the saied Thomas Crosse had been.

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[13] D'Ewes no doubt intended to fill in the details from the Clerk's book. See N. and R. Introd., xxiv, n. 19.

[14] See *Documents Relating to Proceedings against Prynne,* 62-63, 64-65.

f. 187a] February 2, Tuesday, 1640.

Sir Walter Earle moved that the late Mayors Deputie of Warham[1] in the Countie of Dorset might amend his sonns returne for one of the Burgesses of that towne and bee sent for hither which was granted.

The Lord Goring sent his reasons to iustifie the taking of the custome and impost of Tabaccoe: of 6^d per pound for one sorte and 4^d for another sorte, that it was taken in King James his time. That the Lord Goring had farmed it at 11000£ per annum and some other reasons. But all weere fullie answeared in the margent of those reasons shewing that this imposition was against law; and that the Lorde Goring was culpable in seeking that farme. These reasons weere putt in because one Mr. Daniel Warner had petitioned the Howse to have a shipp of tabaccoe restored to him which had been seized. Therupon Jan. 15[2] last past ther was an order made in this Howse that the saied shipp of tabaccoe should bee delivered to the saied Mr. Warner, hee giving securitie to stand the order of this Howse. Soe upon debate it was agreed the same order should still continue till ther weere further time to debate the busines.

Then Mr. Vassall a member of this Howse moved that divers of his goods weere detained in the custome howse in possibilitie to perish. Soe it was ordered that a warrant should goe out to the customers to shew cause heere in this Howse why they detained the saied goods.

Mr. Hide that sate in the chaire for the Committee which was appointed to draw upp the charge against the Judges: desired to know if the saied Committee should appoint such amongst themselves as should prepare the questions and assist at the examination of the Judges against the Lord Finch late Lorde Keeper: and it was agreed they should.

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[1] Edward Harbyn. C.J. II, 77.

[2] Jan. 25. *Ibid.*, 72.

Mr. Perd made reporte from the Committee of proiectors and Monopolizers that weere members of this Howse:[3] that Sir Nicholas Crispe[4] was first a Monopolizer in the matter of coperas.[5] It was severallie disputed. And then hee shewed further that ther was a patent taken in the name of Elizabeth Viscountesse Savage that she should have all gold stones blew stones and some other stones on the sea-shore, but this was conferred on Sir Nicholas Crispe alsoe. Soe it was voted that hee was a Monopolizer; and unfitt to sitt as a member within this Howse:[6] and that a new writt should issue out for another to bee elected in his place.

Hee reported alsoe that Mr. George Goring eldest sonne of the Lord Goring had his name used in a patent for tabaccoe; but, being a member of this Howse hee came to the Committee and shewed that his name was used by the Lorde Goring his father without his knowledge[7] or consent, and that since hee never intermedled with anie particular ordered by the saied patent. And soe it was voted by the Howse that hee was noe Monopolizer within the order of this Howse.

f. 188a] Then it was moved that the matter of Monopolizers and proiectors of all sortes might bee referred to a Committee appointed for that purpose alone. Some would have had it referred to the grand Committee of Greivances, others to the Committee for Weymouth touching salt soape and leather: but others desired it might bee referred to the same Committee that had examined the other Monopolies wheere Mr. Perd sate in the chaire and it was soe ordered. I was of the saied Committee; and ther power was now enlarged to enquire alsoe of the Referrees who allowed the saied proiects; and of the names of those whoe had received anie monie or other guift to procure the passing of the saied proiects. And to consider alsoe of the proclamations that countenanced the same.

This being setled divers called out to goe to the busines of the day and to call in the Ministers about ther Petition and remonstrance.

Sir Ralf Hopton therupon preferred a petition about some bribe taken; which many would have had read; but the maior parte weere against the reading of it: and soe it was laied aside, and ordered that it should bee read too morrow morning.

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[3] "This day there were 50 Monopolists discovered in the House." *D.O.* 33. But this is stationers' gossip unsupported by other evidence.

[4] *Cripps* in C.J. (II, 77), but Peyton agrees with D'Ewes.

[5] "Copperas stones and Gold stones on the seashore." Peyton, f. 78. "Red Lead and Coperis." *D.O.* 33. Rushworth (IV, 165) speaks of Crispe's "patent for the sole gathering of Copperas-Stones on the Sea-coast."

[6] *Cf.* Peyton, f. 78.

[7] "That hee was beyond the Seas at the time of procuring the Patent; that his name was putt in without his privitie, and as hee was putt in without his consent and knowledge, soe neither did hee ever receive any profitt therefore." Peyton, f. 78.

Then wee fell to debate before those seven[8] ministers that delivered the saied petition and Remonstrance on saturday was sennight should bee called in; what questions should bee asked them.

Then the LORD DIGBIE stood upp and shewed that the two Ministers who had to him disavowed the saied Remonstrance weere Dr. Burges and Dr. Downing.[9]

Then the dispute continued long about the questions to bee asked them. I moved, that the hands sett to the petition weere not written by the parties themselves, but taken out of severall autographicall or originall petitions sent from each countie. That some being entrusted to draw the saied Remonstrance out of those severall petitions; it was read in the presence of neare upon an hundred ministers of which number I did verilie beleeve these two Doctors weere. And therfore I desired that this question might bee asked of the two Doctors, whether they did not read or heard the saied Remonstrance read before it was presented to this Howse; which question was well approved of the Howse.

Then SIR JOHN STRANGWAIES having saied that 13 or 15 ministers in Dorcetshire subscribed with reservation: it bredd much dispute, till at last MR. HAMDEN desiring him to explaine himselfe; hee confessed that those ministers names weere not putt to the petition; and soe it prooved an objection of noe waight.

During our agitation a motion was made on the behalfe of Mr. Holburne a lawyer and member of this Howse, that being of counsell in a cause to bee heard before the Lordes this morning, hee might have licence to attend this busines: which was granted and soe hee departed out of the Howse.

Soe after some further agitation touching the saied questions the saied seven Ministers of which Mr. White of Dorcetshire, Mr. Marshall of Essex and Mr. Calami of London weere three.

They standing at the barre the Speaker first demanded of them whether the names subscribed to the petition delivered in weere sett unto it by the persons themselves. They answeared No. Then hee asked by what authoritie they weere subscribed. And they answeared that they tooke the names out of severall petitions sent upp by severall ministers subscribed by themselves. The Speaker then asked them if they had read the saied petition or remonstrance and would avow them. They answeared affirmativelie that they had heard the saied petition read; and they would avow all and everie parte of it iointlie and severallie.

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[8] There is lack of agreement as to the number. On Jan. 23 "some six or seven of those who subscribed the Petition were called in" (C.J. II, 72); but on Feb. 1 "those sixteen ministers who, as this House was informed were deputed to follow the Petition," were ordered to appear the next morning (*ibid.*, 77). Peyton (f. 79) says that "some 8" appeared on the second.

[9] Dr. Cornelius Burges (1589?-1665), rector of St. Magnus, London Bridge. Dr. Calybute Downing (1606-1644), vicar of Hackney, London.

f. 189a] They being withdrawen: Doctor Burges and Doctor Downing weere brought in:[10] and soe a paper the Lorde Digbie had written was shewed them, in which it was sett downe that they had expressed some dislike of the saied Remonstrance given in to this Howse in the names of themselves and others. They confessed the Lord Digbie had shewed them that paper this morning, that in conference with his Lordship they had onlie saied that they thought the saied Remonstrance too long; and that opinion alsoe they weere ledd unto by some members of this Howse, who tolde them they feared that the lengh of the same would abate the edge of the Howse. But for the substance of the Remonstrance they allowed it and avowed it. Then the Speaker demanded of them if they had read the saied petition and Remonstrance or had heard them read: and they acknowledged that they had been present at the reading of it: in a large roome wheere ther weere about some fowrescore ministers assembled. Soe they withdrew.

But the LORDE DIGBIE not satisfied with what they had saied, because they had spoaken soe farre shorte of what hee had enformed the Howse desired they might bee againe called in; and asked about the paper hee had written. Some weere against the motion, but others desired it might bee yeilded to. Soe the same two Doctors weere againe called in, and did againe directlie avow the saied remonstrance, and that they had not saied soe much as was conteined in the saied paper, but with certaine reservation. Soe as the Howse was much satisffied with the ingenuitie of ther declaration, and that they weere innocent.

Then wee fell into dispute whether this Remonstrance for soe much as wee had read of it should bee committed or not and to what Committee. Some would have it committed to a new Committee to bee named; others to the grand Committee for religion, and MR. SAINT JOHN newly created[11] the kings sollicitour, moved that it might bee referred to the Committee of fowre and twentie. All agreed that whatsoever Committee should take it into consideration, they should onlie prepare heads for the Howse to debate; and that they should likewise collect like heads out of other petitions touching the greivances of Ecclesiasticall goverment. Then it was moved that the heads likewise might [be] collected out of the petition of London:[12] and presented with the residue. MR. HOLLIS made this motion. But SIR JOHN CULPEPPER desired that petition might not bee referred to anie Committee with the other petitions and the saied Remonstrance because Episcopacie it selfe was condemned in it, and hee saied the Bishopps weere maine columes of the realme: which speech gave offence to manye.[13] And would have been fullie answeared; but that the Speaker being invited to dinner to Lincolnes Inne, this Candlemas day wheere it was a grand day, desired of the Howse to grant him that request, being the first hee had ever made to us to rise it being then twelve of the clocke, and to deferre the present dispute till too morrow morning; which was accordinglie assented unto, and soe the Howse rose.

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[10] "Dr. Burges and Dr. Downing being called in, and required to declare wherefore they dissented and wherein, from the parts of the Remonstrance, Dr. Burges firste said, That they did agree to it all as a Greivance, ect. Dr. Downing said: Hee agreed in his Judgment concerning the maine designe, butt in his discretion concerning the contrivance of the worke hee did nott agree, for that hee thought it might have beene couched closer or in other expressions better. Butt it is hard for all men to agree in expressions." Peyton, f. 79.

[11] Jan. 29.

[12] The petition which led to "Root and Branch."

Post Meridiem.

In the afternoone divers of the Committee in Mr. Prins busines of which I was one sate in the checquer chamber: wheere the cause of Mr. Peter Ince a stationer of Chester was heard before us; and all partes of his petition abundantlie prooved. That himselfe and Margaret his wife weere both cited to appeare in the high Commission Court at Yorke; being supposed to have visited Mr. Prynne. The saied Peter Ince appeared at Bishops Thorpe the Archbishops mannour wheere the high Commission Court was held. And ther hee was examined upon articles after hee had taken the oath *ex officio;* and then examined after againe upon additionall articles severall times. And though hee confessed nothing but the onlie visiting Mr. Prynne and walking with him; nor nothing else was proved against him, yet hee was fined 300£ and enioined to make a wicked acknowledgment in the Cathedrall church at Chester, and committed to f. 190a] prison for two or three dayes till hee had putt in bond with sufficient suretie to pay the saied fine and performe other partes of the saied sentence. Upon performing which wicked acknowledgment in Chester

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[13] Sir John Coke the Younger, writing to Sir J. Coke at Melbourne (Feb. 2, 1640/41), describes the events of this day in regard to the Ministers' Remonstrance:

"The heat in the Lower House increases. This day was spent in examining Doctor Burges and Doctor Downing, who having subscribed the petition from the 750 ministers were said by my Lord Digby to disavow part of the remonstrance. They confessed, the one viz. Doctor Burges, that he had desired the Lord Digby that the whole remonstrance might not be read at one time, lest the length thereof might divert the present debate of Church government: the other, viz. Doctor Downing, said that he was not well satisfied of the manner of expression in some part of the remonstrance, and that he conceived some points contained were of too low a nature to be presented to so high a court. But they both absolutely avowed the substance of the whole remonstrance to be according to their judgments. There was some art in this, thereby to cast some blemish upon this petition and the subscribers: it was seconded by Sir John Strangeways, but neither he nor the Lord Digby came clear of this business in the opinion of the hearers, though they were contented to let them take it upon them that they had justified themselves. Though indeed the explanations of the Doctors took off that sense from their speeches which my Lord Digby had represented. Selden struck in with Digby and Strangeways: they were principally opposed by Hamilton [Hampden?], Holles and Pimme, who desired to uphold the credit of the petition. More passion appeared now than heretofore." *Coke MSS.*, II, 272.

Church and in another place ther, parte of his fine was remitted. But his losses weere prooved to bee great both in the losse of his trade and credit. For Margaret his wife upon her double examination by commission and nothing prooved against her; they proceeded noe further in this busines: but shee was putt to great vexation and trouble without recompence.

Thomas Hunts petition was next read: and upon the proofe of it, it appeared that hee had visited Mr. Prinne at Chester in his passage to Carnarvan Castle and accompanied him out of the towne. Hee was fined 100£ which was afterwards mitigated to a lesse summe; and forced to make the same wicked acknowledgment, besides his great damages.

Then was read the petition of Robert Ince of Chester about 73 yeares old draper, against whome as against all the rest the suites weere commenced in the high Commission at Yorke in the yeare 1637: who for his contempt and absence after hee had answeared the articles once for not answearing them better nor answearing to additionall articles was fined 450£ by the high Commissioners at Yorke, and that still severall new penalties weere imposed on him ther to the value of some 480£ moore which weere all estreated into the Exchecquer: and now the saied Robert was in danger of being taken and imprisoned for them.

Lastlie William Traffords cause was heard whose executor John Trafford had iointlie petitioned with Mr. Goldburne and Mr. Leigh for reparation of those losses and damages the saied William Trafford had susteined by the uniust proceedings of the high Commission at Yorke against him, for having visited Mr. Prinne at Chester and ridd out of towne with him in the yeare 1637 as hee passed through Chester to Carnarvan Castle goale in Wales. Hee was after much cost, vexation, and trouble sentenced by the saied high Commissioners to pay 150£ fine to make the like unreasonable acknowledgment as others before in the Cathedrall church at Chester and in the Common hall ther, by which hee was to have confessed that hee had done wickedlie in visiting Mr. Prinne, and hee was as all the rest of the Chester men weere who had confessed that they had visited Mr. Prinne to pay such costs and charges as the saied Commissioners should afterwardes taxe: and to bee imprisoned till hee had given suffitient securitie to performe the same sentence: which securitie hee gave accordinglie after hee had been imprisoned two or three dayes.

f. 191a] February 3, Wednesday, 1640.

It was complained[1] that Edward Hanchet that had the protection of the Lord Gray[2] a member of this Howse eldest sonne of the Earle of Stamford, was arrested at the suite of one Sir Edward Watkins by two bailifs, and notwithstanding his shewing the saied protection was carried prisoner to the Kings bench.[3] Soe it was ordered that the saied Sir Edward Watkins[4] should bee sent for as a delinquent and the two bailifs to appeare heere too morrow morning. And that the Marshall of the Kings bench doe alsoe bring the saied Edward Hanchet hither at the same time.

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[1] "Mr. Bagshaw informed the House." Peyton, f. 79.

[2] "a servant to the Lord Gray." C.J. II, 77.

An act against the transportation of woollfells (that is sheepe skins with the wooll on them) fullers earth etc. read 2^da^ vice.

Divers spake to this bill. SIR ARTHUR IMGRAM saied that this bill (and hee first spake) had alreadie past the two Howses twice, and was only stopped for want of the roiall assent. He affirmed that the Lord Cheife Justice Popham had tolde him that if a todd[5] of wool did fall but 1s in price it was an 100000£ losse in the kingdome in one yeare. Too morrow sennight at two of the clocke in the afternoone to meete in the checquer Court.[6]

After this wee fell into a long and an unnecessarie dispute whether wee should treate of the Scottish demands of reparation too day first, or read a petition preferred by Sir Ralfe Hopton against some great persons for briberie in the first place: as it had been ordered yesterday that it should bee read this morning: but at last after long and hott debate, it was concluded that wee should supersede the petition at this time; and proceede with the agitation of the Scottish demands.[7]

And soe the Speaker having heard two or three motions that hee should leave the chaire and that the Howse should bee resolved into a grand Committee; and that Mr. Martin[8] had named[9] the summe of 300000£[10] to bee given; hee propounded it himselfe whether hee should leave the chaire or not and all concluded hee should.

Soe the Speaker left the chaire and the Serjeant removed the mace from the table: and Mr. Palmer was called on to come into the clarkes chaire, but I called on Mr. Perde; and at last hee came.

Then weere read first a former order by which Saturday last was appointed for the debate of this busines; and after an order made at the present when the Speaker left the chaire, that wee should in a grand Committee debate the busines of the treatie of the two kingdomes. Then weere the demands of the Scottish Commissioners read which the Earle of Bristow had delivered us at a former conference, by which they desired wee should sett downe the summe wee would contribute, according to our former generall vote to releive them.

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[3] "Mr. Selden. That in what condition soever hee bee, and were arrested upon Execution or nott; hee shall bee discharged for the present." Peyton, f. 79.

[4] Sir David Wattkins. C.J. II, 77.

[5] *I.e.*, twenty-eight pounds.

[6] For the membership of this committee, see C.J. II, 77.

[7] "The house was resolved to bee cast into a Committee to Debate the positive summe what to give the Scotts in freindly assistance." Peyton, f. 79.

[8] According to Peyton (f. 79), Marten spoke "att the Committee" but before he spoke, Sir Benjamin Rudyerd said: "If wee give not quickly wee shall nott bee able to give at all, for wee lye under a great consumptive charge. And if wee give, lett us give, as a kingdome, to a kingdome."

[9] "Proposed." *Ibid.*

[10] The sum finally adopted. C.J. II, 78.

These being read and after a little silence I stood upp and spake first, That I looked not that this busines should have been agitated too day but the matter of religion. Yet I reioiced that this busines was moved for it concerned religion it selfe. The Romanes did alwaies forbeare to triumph *de cive debellato;* or for a victorie obtained against ther owne subjects. And though I never desired that wee should have warlike triumphs at home yet I hoped this day should give us occasion to triumph over warre it selfe and that wee should conquer it by this dayes service. The artists doe say, that Time is a parte of continued quantitie: but I wished wee might now make it a parte of Discrete quantitie, and husband it well: I alwaies counted Time pretious, but never knew at what rate it was sould till now: for wee finde that it now stands us in 60,000£ a month. It was time for us to hasten to the quenching of this howse that was on fire; and if wee could finde out once the incendiaries that had raised this flame: wee knew f. 192a] that ther punishment would bee great by the ancient common law of England, which punisheth severelie the burning of howses. I was much satisfied to heare the sound of that little bell below (I meant Mr. Martin) that named but 300,000£ for I at first feared that the demand would have been greater. I therfore agreed to that somme; and hoped wee should proceede cheerefullie to the vote. For the meanes how to raise it, and the time when if it weere not the worke of this day, I would forbeare to speake to them.

Then after some other motions Mr. John Selden stoode upp,[11] and spake long and vehementlie; to the great offence of the Howse, and much below the depth of his learning: The effect of all hee saied was that wee weere not suffitientlie authorized to treate of this busines of giving anie reparations to the Scots. That it was against divers statutes to aid or assist them comming with swords in ther hands. That wee might runn into great danger by it: That till all the other articles weere agreed and till they weere departed the kingdome, wee ought not to enter upon the summe to bee given, though wee might safelie treate of it, as hee had shewed wee could not.

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[11] According to Peyton (f. 79 *verso*) Strangeways first raised the question of the power of the House "to debate or dispute that Article of the Treaty, concerning what to give the Scotts for reparations: there being a Commission directed to certaine Commissioners to mannage the Treaty, only, under the great Seale of England." Selden concurred and urged the Commons "to consider what kind [of] a thing it was by the Lawe of the Land, to give aide, comfort or assistance to such as were in the posture of those that are now come into this kingdome with swords in ther handes; and therefore for us to consider of supplying them by a great summe without an expresse Commission for the same."

This speech having been in parte answeared by two or three[12] but not fullie; Mr. Kirton stood upp, and saied that hee was willing to give, but desired that wee might doe it safelie, for hee would bee loath to runn into the danger of treason by it.

I was much moved at these last wordes and after one or two had spoaken before mee I stood upp againe, and saied, That I did prize whatsoever should fall from the penn or toung of that learned gentleman under the Gallerie, (and then I looked towards Mr. Selden) but I did not expect to have heard such assertions from him, espetiallie at this time when things had proceeded thus farre. For if our present dispute weere unlawfull then certainlie our giving fowre subsidies to this verie end and our late generall vote to assist and releive the Scotts weere an offence of an higher nature. But the truth was that all these tending to the prevention of warre and destruction and to the setling of peace, weer good and lawfull actions. Nay I did confidentlie affirme that the Parliaments of England had in all ages treated of matters of the same nature for compounding of intestine broiles at home, and avoiding of forraigne warre abroad: and summes of monie to bee advanced for that end weere propounded and agreed on by Parliament as the Parliament Rolls upon recorde doe suffitientlie show. And E. 3 that was a great and a wise prince, did make solemme declaration in one of his Parliaments, that hee had never undertaken any great action but by the advice of his Parliament. And I would bee bolde to say that never anie Parliament had a moore full and exact authoritie to treate of matters of this nature then wee had now. For not onlie his Majestie in the beginning of this Parliament did fullie transmitt the agitation of these particulars to us;[13] but latelie alsoe at the Banquetting howse at Whitehall did againe recommend unto us the care of the same busines;[14] using those gratious wordes; that whatsoever wee did for the expediting and setling of the Treatie betweene the two kingdomes hee would noe wayes hinder; or wordes to such effect. Nor cann ther bee anie greater, or anie other Commission given from a King of England to a Parliament to authorize them to treate of anie busines whatsoever, then his owne roiall command or direction pronounced from his owne mouth. This I knew to bee the olde Parlia-
f. 193a] mentarie way[15] and is the sure way now. Besides I conceived a

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[12] Possibly it was at this point that St. John delivered himself: "That the Scotts being come into Durrham, they of that County of Durrham did usse themselves to compound with the Scotts; nay, when they heard that one had a trunke of money in such a place, they went thither and brake open the trunke and tooke that money without Leave of the owner: And when that party brought his accion for it a Judgment was given in the Kings Benche against him, for that the money was taken for the present good of the commonwealth." Peyton, f. 79 *verso*.

[13] *Cf.* the King's speeches, Nov. 3 and 5.

[14] The King's speech, Jan. 25.

[15] D'Ewes was a great antiquarian but he would have found it hard to prove that giving money to the Scots was in the old parliamentary way.

great difference to bee betweene the case of the Scotts and of a forraigne enemie. Wee and they weere originallie one nation sprung and descended from one and the same people; and speaking the same language, having onlie different names. And through Gods goodnes as wee weere branches of one roote in the beginning, soe now wee weere subjects under one Monarch; and therfore to treate of making a pacification with them, would never in former ages have been called Pettie Treason much lesse Treason. It is the first time I thought that ever that worde was soe applied within these walls; and I well hoped wee should never heare the like againe. But for the busines in agitation I wished wee might proceede with it; assuring my selfe, that wee could in nothing moore expresse our dutie and loialtie to his Majestie our care and watchfulnes for the publike safetie, and our faithfull discharge of the trust committed to us by the severall places for which wee served.

Vid. pt. Tome the 3, p. 916.[16]

Harl. 164, f. 112a] Mr. Justice Reve and Serjeant Whitfeild.[17]

Mr. Hollis and Sir Walter Earle

Mr. Kirton was satisfied goe.

Then Mr. Speaker left the chaire etc.[18]

Sir John Strangwaies was satisfied alsoe, 200,000£. Sir Robert Pye, 250,000£. Sir Thomas Jermin, 200,000£.

This Howse doth conceive that the summe of 300,000£ is a fitt proportion for that freindlie assistance and releife formerlie thought fitt to bee given towards the supply of the losses and necessities of our brethren of Scotland *and that this Howse will assent to what the Lordes Commissioners shall conclude concerning the summe to bee given soe that the same exceede not 300,000£*[19] and that this Howse will in due time take into consideration the manner how and the time when the same shall bee raised.[20]

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[16] These are some brief notes of this day to be found in volume three of D'Ewes (*i.e.*, Harl. 164). Up to this point we have only D'Ewes's finished minutes of what happened from day to day. Possibly he had made rough notes or jottings from the beginning and destroyed them as he rewrote them into the final journal. From this on, however, he has preserved in the third volume his rough notes, preserved them probably because he did not always find time to copy them. The rough notes were taken down during proceedings and consist usually of brief phrases, just enough to jog the memory and suggest the subjects for the fuller account.

How to deal with the rough notes and finished text has been a problem. To publish them both would seem ideal, but would add greatly to the amount to be published. It has seemed best to me to give the smooth version complete and to give the rough notes wherever D'Ewes failed to complete the smooth draught. On a great many days, from this point on, D'Ewes made his finished version for part of the day and stopped. At that point I continue the text with the rough notes (printed, however, in eight-point type).

But even where D'Ewes has made his final text from the rough notes, he has often left out something interesting or significant to be found in his first version. I have been at great pains, even at the risk of repetition, to add in the footnotes to the smooth version everything from the rough version that added fact or was in any way different, or that might throw any light. I hope that the many footnotes from Harl. 164 take the place of separate publication of that text.

[17] Reeve and Whitfield brought a message from the Lords that his Majesty was to meet both Houses at two in the Banqueting Hall at Whitehall "for answer of the Remonstrance." C.J. II, 78.

[18] The House was resolved into a committee "to treat of the former business." *Ibid.* It is more than likely that they returned to committee as soon as the Lords' messengers had retired. If so, the speakers given above spoke to the question of the amount to be given the Scots.

Regis oratio. Thankes[21] for our care of Religion and his person and his posteritie First hee will never depart from true religion, lawes in execution. Preists and Jesuites to depart within a Month. Proclamation, else lawes in execution[22] that Mr. Con[23] had noe commission etc. but onlie to hold a personall correspondence, but shee would in time dispatch him from Denmarke howse. For John Goodman the preist hee tooke it that noe preist for meere religion suffered in Queen Elizabeths time, or King James, and that if severitie followed abroad[24] etc.[25]

f. 195a] February 4, Thursday, 1640.

MR. MAYNARD made reporte from the Committee of priviledges that hee had 25 causes to reporte, and neare 60 moore depending before him yet unheard: and soe desired some assistance in hearing the saied causes or that hee might have time to make reporte of those which lay on his hands: but nothing was ordered in it.

MR. SELDEN moved that Seaford a Burgesse towne on the Sea-coast in Sussex had sent Burgesses in 27° E. 1 and twice after.[1] And therfore desired that they might send burgesses againe: and that a writt might goe out for the election of them.

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[19] D'Ewes is giving here the resolution, as penned by the clerk, adding to it this part which he quotes directly.

[20] "Our Commissioners did stronglie solist all their friends in both Houses: we had sundrie opposites; yet when it came to voyceing, not manie kythed. Three hundred thousand pound Sterling, four and fifty hundred thousand merks Scotts is a prettie soume in our land." Baillie, I, 297.

[21] The remainder of the MS. for the day, badly garbled, consists of notes on the King's answer. For the full text see L.J. IV, 151. *Cf.* Nalson, I, 745-746; Rushworth, IV, 165-166; where the answer is given in the first person. See also Townshend's brief version, *Diary,* 21-22.

[22] "Commanding them [*i.e.,* by proclamation] to depart the Kingdom within one month; of which if they fail, or shall return, then they shall be proceeded against according to the laws." Rushworth.

[23] D'Ewes has written *Con,* where the King said *Rosetti.* See L.J.

[24] "Yet seeing I am pressed by both Houses to give way to his Execution . . . I do remit this particular Cause to both Houses" (Rushworth, IV, 166), but the King goes on to remind them that similar severities may in turn be put upon English Protestants and others abroad.

At about this time Charles said to Rossetti: "I do not sell men's lives." Rossetti writes to Barberini (Feb. 8): "The question whether Goodman shall live or die has turned into the question whether the supreme authority lies with the King or Parliament. There is no other topic of conversation at present." A. O. Meyer, Charles I and Rome, *Am. Hist. Rev.,* XIX, 24. In this same month when the Queen appealed to Cardinal Barberini for help, urging that Charles, if he embraced Catholicism, would lose his crown, the Cardinal answered that Charles *had* lost his crown already. *Ibid.,* XIX, 25.

[25] Baillie (I, 298) says of the King's speech: "With much humming was it receaved."

[1] M. A. Lower (Memorials of the Town, Parish and Cinque Port of Seaford, *Sussex Arch. Coll.* VII, 73-150) says that between 1298 and 1400 Seaford sent two members to "many successive parliaments" (p. 83). The *M. of P.* records members for 1298, 1300, 1301, 1302, 1322, 1325, 1328-1329, 1366, 1369, 1371, 1394-1395, 1396-1397, 1397-1398, and 1399. Lower believes that reduced population was responsible for Seaford's loss of representation. See also Horsfield, *History and Antiquities of Sussex* (1835), II, app. 68.

Mr. Maynard shewed that it was voted by the Committee of priviledges that they ought to send burgesses and to bee restored to ther ancient libertie.

Sir Walter Earle moved they might not to bee restored because the inhabitants weere rude and some of them papists: and the Lorde of the towne a papist.

I stood upp and moved: that I craved libertie to differ from the gentleman that last spake, for I did not looke upon the rudenes of the inhabitants, nor upon the religion of the Lorde of the towne, but upon the ancient birthright of the subjects of England. For to destroy a right they had enioied from the time of E. 1 was hard measure. By an act of Parliament wee might take away this right, but not otherwise: nor ought anie collaterall circumstances to draw us to destroy such a right. For though the Lorde of the towne weere a papist, yet wee would take care hee should not send papists to bee members heere. And therfore I desired the question might bee putt for the restoring of ther libertie of sending burgesses.

Mr. Hamden spake next, and saied that hee was formerlie of opinion that this towne should not have had ther libertie to send burgesses restored to them; but being fullie satisfied with what I had saied, hee thought it fitt and iust now to have ther libertie restored to them.

f. 196a] Soe the Speaker putting the Question it was presentlie voted that a writt should bee sent foorth to the saied towne of Seford for the election of two burgesses.[2]

Then was Francis Nevill Esquire that had been a member of this Howse in the last Parliament brought in to the barre by the Serjeant: and kneeling the Speaker badd him stand upp: and then hee tolde him that hee had committed a great offence against the liberties and priviledges of this Howse in that after the dissolution of the same hee had at the Councell table accused or at least revealed what had been spoaken by two members of this Howse in the same (those weere Mr. Henrie Bellassis and Sir John Hotham) upon which they weere both sent to the Fleete.[3] The saied Mr.

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[2] "The sending of Burgesses is more then a service, for if it were nott, hee to whom it was to bee done might refuse it or take it as he pleased: And it is meerely a right." Peyton, f. 79 *verso*.

There may have been politics upon the part of the parliamentary leaders in the proposal to give Seaford representation. John Selden, who made the proposal, however, was the last man to lend himself to any scheme for increasing the working majority behind Pym. *M. of P.* does not record members of parliament from Seaford during the Long Parliament, but W. H. Blaauw (Passages of the Civil War in Sussex, *Sussex Arch. Coll.* V, 29-104) gives Thomas Parker and Francis Gerrard as members from that town and says that both were later "excluded" as covenanters. *Cf.* W. D. Cooper, Parliamentary History of Sussex in Horsfield, *History, Antiquities and Topography of Sussex* (1835), II, app. 71.

[3] "For discovering matters of secrecy to the Lords, at the breaking up of the last

Nevill denied the same. But hee being gone out of the Howse; ther followed a long and an unnecessarie debate touching his punishment to which I did purposelie forbeare to speake that wee might not loose too much pretious time about it:[4] having appointed the busines of Religion this day. Some would have had him sent to the tower and fined; others released upon his humble confession: others that hee might bee declared uncapable ever to sitt againe in Parliament. Soe at last it was concluded that hee should bee called in and sent to the Tower for the present during the pleasure of the Howse, and that afterwardes wee might consider of what further punishment should bee inflicted on him. Soe being againe called in and kneeling upon his knees at the barre, the Speaker tolde him that though his offence had deserved a fine to the value of his whole estate, yet the Howse had in much mercie onlie inflicted imprisonment on him; and that hee was to remaine in the Tower of London during the pleasure of the Howse.

Hee being againe withdrawen, it was moved that Sir William Savill that was one of the knights of the shire for Yorkshire in the last Parliament that was dissolved, who had first complained of the saied Mr. Bellassis and Sir John Hotham (in respect that they had spoaken in the same Parliament against the leviing of coate and conduct monie)[5] should bee sent for as a delinquent. Hee had informed alsoe against Sir Hugh Cholmelie and other members of this Howse but was mistaken in his information; yet saied openlie at Counsell table hee would take out his table-bookes[6] and looke whether they had spoaken or no; and soe hee did. Nay it was averred by MR. HOTHAM sonne and heire of the saied Sir John Hotham being a member alsoe of the Howse, that the saied Sir William Savill after the committment of the saied Mr. Bellassis and his saied Father (Sir John Hotham) did ieeringlie say, now they might send to Mr. Perd (who was a barrister of the Middle Temple and a member of this Howse both in this Parliament and the last) to move for a Habeas Corpus for them. Soe it was resolved upon the Question that the saied Sir William Savil might bee sent for as a delinquent, notwithstanding wee weere enformed that hee was latelie elected a member of this Howse.

Then SIR THOMAS JERMIN Comptroller of the kings household stood upp

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parliament." *D.O.* 33. *D.O.*, however, as so often, has the date wrong. For fuller account, see Rossingham to Conway, May 12, 1640, *Cal. St. P. Dom. 1640*, 152-156. *Cf.* Rushworth, IV, 169.

[4] Would that D'Ewes had more often so forborne!

[5] Sir William Saville quoted his constituents as saying that they did not care how many subsidies were given if ship money were taken away. Hotham and Bellasis said that there were other grievances besides ship money, notably coat and conduct money and the military charges. Ship money, said Hotham, had cost Yorkshire but £12,000, whereas the military charge had been £40,000. Rossingham to Conway, May 12, 1640, *Cal. St. P. Dom. 1640*, 152-156.

[6] Neville was not the first to keep a record of the Commons which the King might use. During the twenties Sir Edward Nicholas probably acted as the King's scout in the Commons.

and shewed that the Queene had sent a message to this Howse by him which because hee desired to performe punctuallie hee would crave leave of this Howse to read it out of a paper hee held in his hande in which it was written: which hee did accordinglie. And the substance of it was:[7] that shee alwaies desired that ther might bee a good correspondencie betweene the King and his people, that shee formerlie had and ever would labour to maintaine and encrease the same. That shee had used her uttermost power with his Majestie to perswade him to summon the present Parliament.[8] That shee would also labour that such preists and Jesuites as staied heere against the lawes of the realm might depart out of the same.[9] And wheereas shee understood that this Howse was verie sensible of the great resorte of papists to her chappel at Denmarke howse, and of f. 197a] the person (Viz. Seignior Con)[10] that did attend her heere from the Pope in matters of Religion: and therfore to shew her respects to this Howse shee would both prevent the same accesse to her chappell and discharge the saied person from further attending her.[11] And lastlie concerning the contribution that was made amongst the Romane Catholiques of England in the yeare 1639, it was onlie to ioine in advancing his Majesties service with divers other persons Protestants that did contribute at the same time to the furtherance of the same service. And soe shee concluded with great expressions of her good will to us, and of her readines to perform all good offices to his Majestie on our behalfe.[12] After the Comptroller had ended the reading of the same paper ther was a generall silence. Then some called to proceede to the busines of the day, that was to consider of some other parte of the Remonstrance preferred by the Ministers and others desired to have the same paper read againe by the clarke which was done accordinglie. Then Sir Hugh Cholmelie moved that wee might returne our thankes to the Queene by that honourable person that had brought us the message: but none saied well moved or gave anie great approbation to it.

I was loath the Queenes compliing with us should receive a neglect from us.[13] I therfore stood upp and saied. That I conceived it was not unknowen to many in this Howse of the long roabe (that is common Lawyers) that the Queenes of England weere considered in the lawes of the same realme as *femes soles* although they weere under coverture: and that her Majestie now had the same power of the disposition of all matters concerning her estate as if shee weere a widow; and that therfore wee ought to value anie message from her as from a Queene in her widow-hood. That as this Howse was the rule of Justice, soe it was alsoe the rule of Curtesie. I desired therfore that as her Majestie had expressed herselfe verie gratiouslie to us, and had by her good offices done for the publike deserved well of us some of which mentioned in the saied paper I had formerlie heard offe from persons of worth and creditt, soe wee should againe expresse our respects to her by returning our humble thankes.

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[7] For the text of the Queen's message see Rushworth, IV, 169-170, or Nalson, I, 747-748. Peyton (f. 80) summarizes under six points.

[8] According to Rushworth's version, "at the request of the Lords who petitioned the King for a Parliament, her Majesty at that time writ effectually to the King." See John Bruce, *Notes on the Treaty Carried on at Ripon* (Camden Soc., 1869), xxxv.

[9] This statement is not given in the other accounts.

[10] Rossetti, of course.

[11] As for the resort unto Denmark House, "shee would bee carefull to reforme it." Peyton, f. 80. Rushworth's version (IV, 169) makes her less specific: "She will be careful not to exceed that which is convenient and necessary for the exercise of her religion."

[12] The Queen's tone is friendly. Just at this time she was trying to make terms with the parliamentary leaders. (See Sir John Coke the Younger to Sir J. Coke, Feb. 2, 1640/41. *Coke MSS.* II, 272.) Meanwhile, however, she had been writing to Rome for help and would soon write again.

Therupon divers others concurred in the same opinion and the LORD DIGBIE moved to have a Committee named to draw upp a forme of our thankefullnes to bee returned: but that course wee all generally disapproved: and soe, the Speaker propounded it, That wee should only desire that honourable person who had brought the saied message to returne our humble thankes to her Majestie for the same.

Then weere two motions of noe great moment made for ioining of some Committees two into one which was granted; and ordered.[14]

It was alsoe ordered upon MR. PYMMS motion, that all those members in this Howse that sate in anie chaire in anie of the Committees of this Howse who had anie thing prooved before them that might conduce to the making or drawing upp of the charge against the Archbishop of Canterburie; that they would meete this afternoone in the checquer chamber, to give in enformation therof: which was ordered accordinglie.

SIR WALTER EARLE moved that wee had been formerlie advertized of the dangers that threatned religion from the Irish popish armie; and that latelie wee heard of a welsh armie of papists, which should doubtles have been conioined with the Irish. Hee therfore desired that wee might speedilie desire a conference with the Lordes about the dissolving of the saied Irish armie: which motion was well approoved but nothing ordered therin till f. 198a] a little before our rising.

Then it was moved that a message should goe upp to the Lordes to desire a conference by a Committee of both Howses in the painted chamber concerning the treatie betweene the two kingdomes presentlie if it might stand with ther Lordships conveniencie; and Sir Thomas Barrington went upp with the saied message.

During the time our messenger staied at the Upper Howse ther happened the most confused agitation that ever I saw in the Howse which lasted neare upon halfe an howre.

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[13] D'Ewes was not one of those on the inside who had learned by experience to distrust the Queen. No doubt this speech cost him some of that influence he was already losing.

[14] *Cf.* C.J. II, 78.

Mr. Mainard stood upp to make a report from the Committee of Priviledges touching the election of Peterborough. Sir Henry Anderson stood upp to preferre a petition touching two men that had been formerlie executed by martiall law in the North partes and neither would give place to other, soe as ther weere neare upon twentie severall speeches made to the orders of the Howse. but the order still continued till at last wee had resolved it that Mr. Mainard should make his reporte; which hee did accordinglie.[15] And that was that Mr. Fane (one of the yonger sonns of the Earle of Westmerland deceased) and Sir Robert Napper weere both returned for burgesses of Peterborough, and that upon the examination of the matter the Committee found that Sir Robert Nappers election was good and Mr. Fanes void. It was a little spoaken unto after the reporte made, but at last it was alsoe resolved in the Howse upon question, that Sir Robert Nappers election was good, and that hee should bee admitted to sitt as a member of the Howse in the same.

Sir Thomas Barrington our messenger being returned brought us the Lordes answeare which was that they would give us a meeting presentlie as was desired.[16]

Then Mr. Treasurour having a question with him which I had propounded yesterday (and then it was called my question) and the Howse had voted, went away to the conference wheere hee was onlie to read over the saied to the Lordes and soe to come away. I neither went upp with the message; nor to the conference; which was verie shorte.

Then was the petition[17] againe preferred by Sir Henrie Anderson, who before the deliverie of it, spake againe and iustified himselfe in his former standing upp; this morning. The petition shewed that divers souldiers in the Northren armie in the last passed summer being of Sir Thomas Danbies regiment, and wanting divers weekes, did often and earnestlie require the same. For which they weere by the Earle of Straffords warrant being then Lord Generall condemned to bee tried by a Councell of warre wheere three of them being adiudged to death two weere executed. The same Sir Thomas Danbie was a member of this Howse, and it was ordered that the saied Sir Thomas should bee present too morrow morning in the Howse, to give an account to the Howse touching the execution of the saied two men.

f. 199a] Then Mr. Treasurour being returned from the saied conference ther happened a prettie question for the vote of the Howse aforesaied being read by the saied Mr. Treasurour, the Earle of Bristow stood upp and shewed that the Lordes Commissioners desired that wee would prolong the treatie for a month longer, from the 16th day of this instant Januarie. And soe having declared what hee had done, hee saied that hee had somewhat else to informe the Howse offe if they thought it fitt, which the Earle of Bristow declared after his message done from this Howse. But divers spake against the receiving of anie reporte of matters of that nature: and some would have it related as a private narration and not as a reporte. I moved that at a conference by a Committee of both Howses, the messenger onlie of that Howse which desired the conference was to speak and not to receive or reporte anie thing which the other howse should deliver. But a free conference was an interlocutorie conference on both sides, and once this Parliament when wee had desired a free conference with the Lordes it was mistaken in the deliverie or the receiving of it: soe as when wee mett and the Lordes understood wee had desired a free conference, they would not at all proceed till they had againe returned to ther Howse, and ther received power for a free conference. Soe I conceived this Howse could not receive this reporte, nor would have it at this time declared to us either by way of relation or intimation. And soe after a motion or two moore it was stopped.[18]

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[15] *Cf.* Scobell, *Memorials,* 7.

[16] *Cf.* L.J. IV, 151.

[17] The humble petition of Eden Langdale, widow. C.J. II, 79.

Then it was ordered wee should enter too morrow morning. 1. Upon the further consideration of the Ministers remonstrance. 2. the Northren parts. 3. the Irish Armie. I was at no Committee in the afternoone.

February 5, Friday, 1640.

After two bills of noe great moment had been read of which the last was for the naturalizing of one John Bicks,[1] An excellent act was brought in by Mr. Alderman Pennington, for the abolishing of images and altars and railes and superstition and Idolatrie; and for setling of the true religion. It wanted a title. And soe wee added this title to it: An act for the abolishing of Superstition and Idolatrie, and for the better advancement of true religion. The wordes *and Idolatrie* weere added upon my motion.

Upon Mr. Glinns motion it was ordered that the Committee which was appointed to draw upp the charge against Sir Francis Windebanke, one of the Secretaries of State might consider alsoe of those secrett licences the saied Windebanke had granted for divers persons to bee sent beyond the seas and educated ther in popish seminaries[2] which was assented unto and ordered accordinglie.[3]

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[18] As to "conference" and "free conference" see Porritt (Cambridge, 1903), I, 559. Peyton (f. 80) makes the Speaker say: "That when the house had sent ther members out with a message, it was nott regular to make a report, for that somebody might bee then absent in the service of the house, that perhaps would speake to the Report."

[1] Beckz. C.J. II, 79.

[2] The committee was also empowered to receive all petitions of the like nature. *Ibid.*

[3] *Cf.* Reade to Thomas Windebanke, Feb. 26, 1640: "For the other complaint you apprehend against Mr. Secretary, I protest to God nothing in the world is more false,

Sir Arthur Ingram moved that a bill should bee drawen for the punishment of John James the papist which had wounded Mr. Heyward the Justice of peace;[4] and it was ordered accordinglie that a bill should bee drawen.

Mr. Grimeston moved that the subcommittee for Religion[5] made out of the grand Committee appointed for the same end, should enquire touching the seizing of bibles and praier bookes by whome it was commanded: and by whose meanes it was that, those pious and orthodox bookes weere now inhibited to bee reprinted, which had been formerlie licenced.

A petition was preferred against one Mr. Bowen a minister that had preached or held in discourse; That Bishops weere supreame governors of the Church, That wee ought to obey the Bishops commands equally with the Kings, That Queene Maries daies weere better the[n] Queene Elizabeths for the church was advanced in the first, and depressed in the latter.[6] Soe it was ordered hee should bee sent for as a delinquent.[7]

Harl. 164, f. 112a] Doctor Reve.

Divers spake to the excesse of the power, of the high Commission.

I shewed ther weere two grounds or columes upon which the high Commission etc. 1, the Statute and then the Commissions granted since.[8]

Ordered after severall motions that some members, Lord Keeper. Divines out of Commission.

Doctors in universitie to bee putt out alsoe etc. Divers against it the Speaker himselfe spake in it. I moved that they had cohercive power.

Then a new question of civill lawyers, which after long agitation it was left out.[9]

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and I cannot believe any man will undertake to make such a complaint, much less to prove it." *Cal. St. P. Dom. 1640-1641,* 476.

[4] Heyward was wounded Nov. 21.

[5] Called in C.J. the Committee for the Lord of Canterbury. This committee had been created Nov. 23 and Sir Edward Dering was chairman. For personnel and for some of the proceedings of the committee see *Proceedings in Kent, 1640* (*Camden Soc.,* 1862), 80-99.

[6] "Within this 3 weekes hee preacht this." Harl. 164, f. 112a.

[7] About Bowen's practices see William Finch to Sir Edward Dering, Jan. 7, 1640/41, *Proceedings in Kent, 1640,* 122-123.

[8] What precedes is put in on the fifth between Mr. Grimston's motion and the order concerning Bowen. But the lines separating it from what is above and below would indicate that it belongs somewhere else, but where I cannot say.

[9] "Ordered, That intimation bee given to the Lord Keeper by some members of this house (and 4 were named) before hee issued out new Commissions for the Peace: That hee would nott name in the Commissions any Cleargie men in any place; for that by the opinion of this house they were held unfitt for those offices of Temporall Jurisdiction." Peyton, f. 80 *verso. Cf.* C.J. II, 79.

"Mr. Glyn mooved, That if an intimation were to bee sent, the house would first consider; whether it would nott bee convenient to suffer Divines to bee in the Peace there for the better regulating of schollers ect.

"Dr. Eden said, That in the University Charter to the Vice Chancellor ect. of their liberties and power of Jurisdiction; there is in speciall words saide, *Felonia et Mahemio exceptis;* wherein notwithstanding, it was fitt a Jurisdiction some other way should bee derived to have cognizance of such causes, ect.

"Mr. Selden saide, There was noe reason to exclude Civill Lawyers outt the capacity of exercising temporall Jurisdiction in the Commissions of the Peace for that it is

Kings speech read by Speaker etc., and Alderman Pennington.

Mr. Woodford. At White Lyon at Islington etc. two trunkes of Earle of Straffordes etc. going into Ireland, etc. Debate what to doe with the trunkes.

The petition of Eden Langdale widow brother of Matthew Langdale, read againe in which Sir Thomas Danbie was accused to have done it malitiouslie and to have procured the Commission for a Counsell of warre to bee called saied whosoever was hanged, Langdale should bee one etc. that hee was kinsman to the Earle of Strafforde etc.

Sir Thomas Danbie stood upp and desired that hee might have a copie given him of the petition and have time to answeare.

This was severallie disputed.[10]

I moved to know if hee procured this Commission etc.

13 Aug. last, fowre nobles for everie souldier which hee medled not with but left it to an under officer to pay who was clarke of the regiment, hee gave voice that hee was a mutiner and soe

f. 112b] Then after much dispute about Sir Thomas Danbies busines it was referred to the Committee in the Earle of Straffords busines and divers weere added to it.[11] But then Henrie Anderson being one, Mr. Price etc. Sir Henry Mildmay etc. Mr. Comptroller that hee had spoaken slightlie.[12]

Sir John Bankes newlie made Lorde Cheife Justice of the Common pleas[13] and Sir Ralfe Whitfeild one.

An Act for preventing of the inconveniences that have happened by the long intermission of Parliament.

A bill for the releife of the Kings armie and Northren Counties.[14]

Then wee fell upon Mr. Price his wordes againe[15] and divers called him to the barre, but hee stood upp and excused himselfe; and asked pardon of the Howse which was granted accordinglie.

But Sir Henry Anderson not satisfied stood upp and saied Mr. Price had charged him with malice etc. Then being interrupted hee begann againe to say hee knew etc. Mr. Treasurour spake and soe all was laied downe etc., and begann to enter on Remonstrance but Mr. Hollis

Ordered that the busines concerning the Remonstrance presented by the ministers and the London petition bee first considered too morrow.

That the petition of the Earle of Eastmeath and other Irish petitions[16] should bee referred to the Committee in the Lord Mount Norris his busines.

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better to putt in men that know to conforme themselves by some Lawe, then such as know noe Lawe at all.

"Mr. Holles. Would have those Civilians bee incapable only of the office of Justice of the Peace, that have taken the late Oathe enjoyned by Canon: for that they are become thereby a party with the Bishops against the Common Lawe and are the Bishops bondmen." Peyton, f. 80 *verso*. *Cf. D.O.* 34.

[10] "Great debate was had whether hee should answer to the whole charge of the Petition presently, or have time till to morrow morning as was desired; because as the charge stood, prima facie it seemed noe lesse then capitall: butt in the end it was committed." Peyton, f. 80 *verso*.

[11] *Cf.* C.J. II, 79.

[12] What D'Ewes must mean is, Henry Anderson, being a member of the committee, the question of the controversy over Mr. Price naturally arose. Mildmay and the Comptroller urged that Anderson had spoken lightly.

[13] Banks had succeeded to Littleton's place on Jan. 29.

[14] This Act and the preceding one had been returned from the Lords with alteration.

[15] See dispute of the day before.

[16] *Cf.* C.J. II, 79.

Ordered that the report concerning the charge against the Judges should bee made on Monday morning at nine of the clocke.

A act for the better ordering of Post men.

Bill of the clarke of the market and for reformation of the waights and measures. Divers amendments weere added etc. I moved touching colledges etc.: and after touching corodies,[17] in fee simple.

Winchester bushell 8 gallons and 16 gallons double Winchester measure and 24 gallons treble Winchester measure.

Harl. 162, f. 202a] February 6, Saturday, 1640.

It was resolved upon the question that Sir Edward Bainton should have a further day to answeare at the Committee for priviledges and to produce his witnesses. Hee was a member of the Howse and questioned for his election[1] at Chipnell[2] in Wiltshire.

It was moved that Sir John Jennings being sent for before the Lords of the Counsell was sent to the Fleete by a warrant signed by them in which noe cause was shewen why hee was committed, which was done that soe the new device of the Judges in the Kings Bench might take place; which was that if the Lordes of the Counsell did not expresse a cause why they committed a man they would not grant an Habeas corpus to him. Hee being in the Fleete was faigne to give a bond before hee could bee delivered of 500£ penaltie to answeare to such information as should bee putt in against him in the starre-chamber. And it was affirmed alsoe by Sir John Jennings, being a member of the Howse and present, that hee was drawen to enter into this bonde by Sir John Bankes then Attournie generall. Soe it was ordered that the saied bonde should bee brought into the Committee appointed to consider of the jurisdiction of the Counsell table, and delivered upp to them.

Sir Thomas Roe, who had been absent from the Howse about eight weekes, moved that wheereas hee had been formerlie appointed by this Howse to desire his Maiestie that the bookes taken out of Sir Edwarde Cokes studie[3] or elsewheere might bee restored to his executors; hee would now againe if the Howse thought fitt,[4] and it was ordered accordinglie.

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[17] Corody originally meant the free quarters due a vassal to his lord on the lord's circuit. Later it came to be applied to certain contributions of food, provisions, etc., paid by religious houses.

[1] After the words, "Hee was a member of the Howse and questioned" D'Ewes has erased the words, "because of his rigorous levying of shipp-monie when hee was sheriffe of Wiltshire." The Rough Notes prove helpful. "The Committee for Shipp-monie had ordered Sir Edward Bainton to answeare by a peremptorie day to certaine matters objected against him touching the rigorous leviing of Shipp-monie." Evidently the Commons changed their attack, deciding to invalidate Baynton's election. Harl. 164, f. 112b.

[2] Chippenham. C.J. II, 79.

[3] See above, 174, also *Cal. St. P. Dom. 1629-1631*, 490; *idem, 1634-1635*, 165, 340-341, 348, 351.

[4] "Sir Thomas Roe moved about Sir Edward Cokes bookes whether hee should move the King againe about his bookes." Harl. 164, f. 112b.

Wheereas it had been agreed that Sir David Watkins and the two bailifs that arrested the Usher[5] of the Court of Wardes doore who attended our Committees ther, should bee sent for as delinquents, because the saied Usher had the Lorde Grayes protection. The Speaker related that the Lorde Gray disclaimed the saied protection; and then it was moved by the same Speaker whether hee should have the priviledge of the saied howse; and resolved that hee ought not[6] to have it.[7]

Then weere the amendments in the bill of the fowre subsidies granted for the releife of the Kings armie and the Northren counties read twice, and weere twice read; which amendments had been added to it by the Lordes of the Upper Howse. MR. PYMME moved that wee might [add] two subsidies moore to the saied fowre and that the Committee named might add the same. And SIR JOHN HOTHAM seconded him.

MR. CAGE one of the Burgesses of Ipswich in the Countie of Suffolke stoode upp and saied that hee was sorrie to see such a motion made as was useles. For this bill had now passed the Lordes and wee weere bound upp by that, and could add nothing to it;[8] unles wee altered the whole frame therof and gave it againe three readings;[9] SIR WALTER EARLE seconded him, and soe Mr. Pymms motion was generallie disliked. Then it was ordered upon the Question; that the saied Amendments should bee committed.

Then weere the Amendments read alsoe which the Lordes had added to the bill for the preventing of the Inconveniences which had happened by the long intermission of Parliaments. Wheerein they had given power first to the Lorde Keeper or anie that should have the custodie of the great seale to send out writts, and then to the Peeres of the realme or any twelve of them, in case the King himselfe did not send out writts of summons. These amendments weere upon the question; committed to that committee, to which it had been formerlie committed, wheere Mr. Prideaux sate in the chaire: and they weere appointed to meete in the Inner Court of wardes this afternoone[10] at three of the clocke.

f. 203a] And it was likewise ordered that the Amendments in the saied bill passed for the releife of the Kings armie and Northren Counties should bee committed, to a spetiall committee named a little before: of which Mr.

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[5] Mr. Hanchett. C.J. II, 80.

[6] "Sir David Watkins and the bailifs to bee discharged." Harl. 164, f. 112b.

[7] "Because hee is nott his meniall servante." Peyton, f. 81.

[8] "We can only consider of their amendments and nott make any new alterations or amendments elsewhere of our owne." Peyton, f. 81. Selden had already remarked "That the amendments of the Bills ought to bee twice read, and then committed before it bee read the third time." *Ibid.*

[9] "Mr. Cage shewed the unseasonablenes of the motion and the impossibilitie of it." Harl. 164, f. 112b.

[10] D'Ewes here in writing out his smooth version of his minutes from his rough notes has retained "this afternoon," which may possibly indicate that he completed his revised account the same day.

Selden was one.[11] And they weere appointed to meete this afternoone in the Inner Court of Wardes alsoe at two of the clocke.

Then it was moved that a declaration which Mr. Saint John, the new Solliciter generall, had latelie made at a conference by a committee of both Howses in the painted chamber touching the illegalitie of Shipp-monie[12] was printed full of errors and mistakes: and soe the Speaker propounded whether wee did not thinke it fitt to have the printer severelie punished: to that the Howse generallie assented. But then Sir Walter Earle moved to have the saied speech imprinted out of a true copie therof. Divers spake to it wishing the imprinting of it. Mr. Sollicitor himselfe desired that it might not bee imprinted, but the false impression bee suppressed: and that it might bee ordered by a conference in a Committee of both Howses, that the same might bee entred in the Journalls of both Howses.[13]

After a motion or two moore in answeare to Mr. Sollicitors speech, as if hee had been averse against the printing therof onlie out of modestie; I stood upp and saied, That I should concurre with those that should goe highest for the punishment of him that had sett foorth this false impression. I did alsoe allow ther desires of furthering the publike good by a new and true publishing of it. But I did rather wish it might not bee published, which agreed well with the old Parliamentarie course. For as at this day none but the publike acts are imprinted, soe ancientlie though both weere entred on the Parliament rolls, yet onlie such as are now printed weere then published. Our speeches in this Howse weere like the Sibilline oracles ancientlie kept in Rome, which weere *Arcana sacra*, and not to bee divulged. I doubted not but that this declaration was soe pretious as everie member of this Howse would conceive it worth the copiing out.[14] And this would add much moore esteeme to it, then to have it published. I might well say of it soe concealed, as Tacitus doth of the Images of Cassius and Brutus: *Eo magis splendebant quo non visebantur*. But notwithstanding my motion others moved to have it printed. And then Mr. Sollicitor was desired to deliver in a true copie of it, into the howse, and then wee might further consider of the imprinting of it.

Soe a Committee was named[15] to prepare heads for that conference as Mr. Sollicitor had moved. And it was appointed they should meete on monday next at two of the clocke in the afternoone. This was but iust setled, when wee understood that a message was sent from the Lordes to us. Soe the Messengers viz. The Master of the Rolls,[16] and Sir Robert

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[11] *Cf.* C.J. II, 80.

[12] Jan. 14. See above, pp. 253-255.

[13] This was a curious suggestion. Speeches had not since 1628 been recorded in the *Commons Journals*, and had they been so recorded, would have had no standing as records.

[14] See N. and R. Introduction, xxxix.

[15] *Cf.* C.J. II, 80.

[16] Sir Charles Caesar.

Heath newlie made one of the Justices of the Kings Bench weere admitted; and the Master of the Rolls delivered the message which was that the Lordes desired a conference with us by a Committee of both Howses in the painted chamber, presentlie, touching the treatie betweene the two kingdomes; if it might stande with the conveniencie of this howse.

f. 204a] Soe the messengers being withdrawen the Howse agreed to give ther Lordships a meeting presentlie. And the saied messengers being againe called in; the Speaker related the same to them. But in the meane time before the saied messengers weere called in the second time Alderman Pennington shewed that the citizens in London weer not satisfied with his Majesties last speech without the saied John Goodman the preist weere executed. Soe it was thought fitt by the Howse that the Speaker should write to them to let them know that both the Howses of Parliament weere fullie satisfied with the same speech.[17]

Soon after the departure of the saied messengers Mr. Treasurour and others weere appointed Reporters to goe upp to the saied conference. Divers of us being come thither ther was a verie thinne apparance of the Lordes, and the Lorde Keeper was absent.

Soe the Lorde Privie Seale being the Earle of Manchester begann and saied, My Lorde of Bristow yow may beginne.

Then the Earle of Bristow stood upp, and shewed us That as hee had formerlie acquainted us with the proceedings of this great busines touching the treatie of the two kingdomes; soe now hee was come to this conference to let us know what had been done since the last meeting. And first for the vote which had past this Howse upon the Question; upon Wednesday the 3d day of this instant Februarie last past they had shewed it to the Scottish Commissioners

Harl. 164, f. 113a] Being returned Mr. Hide made reporte of the Judges Charges. First for Judges fowre deepe in all of the Shipp-monie[18] etc. The Lord Cheif Justice and Cheife weere not altogether soe

Mr. Treasurour reported, etc. My Lord Privie Seale saied, will yow beginn my Lord of Bristow.

Then he begann and shewed that our last vote

5 Febr. 1640. A most excellent declaration of thankefullnes.[19]

Then the Earle of Bristow saied that they had done ther uttermost to hasten this treatie and still would; they considered the charge etc. and that they desired now a cessation of armes for a month longer etc. This being done wee weere about having the question putt when divers spake to have onlie a month etc. divers spake to it.

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[17] "That Mr. Speaker send his letter to the Lord Mayor of London, to acquaint him, that it is the desire of this House, that the monies which are underwritten by the citizens, may be speedily collected, and paid into the Chamber of London." C.J. II, 80.

[18] *Cf.* C.J. II, 80; also *D.O.* 35. The latter bears quotation: "There was also a debate in the House concerning the Judges; and it was found that some were more faulty then the rest; as namely Judge Berkely, who declared in his Circuits, that ship-money was as inherent to the Crown, as anything in the Kingdome; and wished his hand might rot off, if it do not go along with his heart in that opinion."

[19] *I.e.*, the Scottish message. For the message see L.J. IV, 153.

I saied, etc., divers spake after.

Then Mr. Stroud spake touching sonnes of Zeruiah[20] etc., a long dispute etc.

Mr. Trelawnie wordes a new dispute etc.

Soe at last Mr. Stroud was cleared by vote.[21]

Then the question touching the cessation for a months space was voted.

Then a messenger was sent to the Lords etc., Mr. Stroud etc. to desire a Conference touching the busines for the two kingdomes.

Soe Mr. Pymme went upp with the conference to manage it, and soon after returned.

f. 206a] February 8, Monday, 1640.

Sir Edward Deering moved that the order made on the behalfe of Sir Edward Bainton on Saturday morning last might bee vacated and avoided.

Mr. Mainard alsoe who sate in the chaire for the Committee of Priviledges shewed that the Committee at the last meeting was readie to have voted the matter of the saied election of Chipnell[1] in the Countie of Wiltes if they had not then wanted time. Yet the Howse would not alter the saied order.

The same Sir Edward Deering made another motion that it might bee ordered that everie morning wee should the first thing wee did read one publike bill and one private. But this motion was reiected upon Mr. Cages standing upp and saiing, Hee hoped that this Howse had wisedome enough to dispose of ther owne busines, that wee needed not to bee bound upp by an order:[2] which motion of his was seconded by Mr. Treasurour.

Sir Peter Hayman[3] one of the Burgesses for the burrough of Dover being deceased it was moved that a writt might goe out for a new election.[4]

An act for the erecting of the parish of St. Paul in the Coven garden and for dividing of it from the parish of St. Martins in the feilds etc. read 1ª vice. And Mr. Speaker dilated the cheife heads of the same act.

An act for the making of the new Church in the parish of St. Paul in the Coven garden parochiall, read 1ª vice.

Upon Mr. Saint John the Kings Sollicitors motion wednesday and thursday next weere appointed[5] for such reportes to bee made as weere now readie to bee reported from the severall committees that sate: and that both those reportes and such other reportes alsoe of which the Howse was now possessed might bee prepared and made fitt to bee transmitted to the Lordes.

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[20] II Sam. xvi, 10; xix, 21. The sons of Zeruiah were overzealous and brought down David's rebuke more than once. Strode may be talking here of some overzealous supporters of the Scots' claims. Strode was never given to understatement. D'Ewes says of him in another place that he had "too hot a tongue."

[21] Strode had influential friends. *Cf.* C.J. II, 80.

[1] Chippenham, of course. See above.

[2] From the lengthy debates recorded by D'Ewes, as to what business should be taken up, one might believe there was some excuse for Dering's motion.

[3] Heyman had been active in the Commons during 1628 and 1629 and had been one of the nine men imprisoned at the end of the session of 1629.

[4] The issue of the writ was not ordered until Feb. 10. Sir Benjamin Weston was returned.

[5] *Cf.* Peyton, f. 81: "and soe weekely those daies bee appointed."

Mr. Henrie Bellassis moved alsoe that if some course weere not speedilie taken for the paiment of the Kings armie, the Northren partes and Yorkeshire espetiallie would bee plundered by the souldiers therof: which armie as hee was latelie enformed did consist of about 12000 men horse and foote: and soe wee might bring the desolations of Germanie upon our selves. Hee desired therfore that wee would appoint too morrow for the discussing of this busines; and that some speedie order might bee taken therin, or else that wee would send downe himselfe and the other Yorkeshire men of the Howse to defend ther owne though with the losse of ther lives. Soe it was ordered accordinglie that the consideration of the paiment of the Kings armie and the releife of the Kings armie should bee entred upon too morrow.[6]

Then after some little debate the petition with the scedule annexed formerlie preferred by the Cittie of London was read, and the onlie question was whether that should bee committed with the remonstrance of the Ministers. But divers mistaking the Question fell into other long and large disputes.[7]

Sir Beniamin Ruddier begann, and entred first into the debate about Bishopps.[8]

The Lord Digbie followed him and spake much for Episcopacie to continue yet desired a Reformation, and that ther power and Revenues might bee shortened. And for the London petition hee spake vehementlie against it saiing it was a presumptuous petition, conteined many frivolous things in it, and did desire the alteration of matters established by law. And therfore hee thought it fitter to bee reiected then referred to anie committee.[9]

The Lorde Falkland spake after him, and entred alsoe very impertinentlie into the merits of the cause, and pleaded long for the continuance of Bishops and then desired they might yet bee reformed. And then moved that the Ministers Remonstrance might bee committed; but desired the London Petition might not bee yet committed.[10]

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[6] "And the House expects an account from Alderman Pennington concerning the monies from the city." C.J. II, 81.

[7] "Monday there was a great debate in the House of Commons, concerning Episcopall government; this debate held the House from 7 in the morning, till 7 at night." *D.O.* 35. Peyton (f. 82) says: "After a long debate upon equall termes on eache part both for and against Episcopacy from 9 o'clock till 5 postnoone."

[8] For the formal version of this speech see Rushworth, IV, 183-184; or *S. and P.* 113-115.

[9] "The Lord Digbie not to have Bishops altered but reformed etc, not to have London petition committed etc, because tumultuarilie brought." Harl. 164, f. 113a. Digby's speech was at once printed by Th. Walkley. Thomason, I, 7. The speech is to be found in Rushworth, IV, 170-174; Nalson, I, 748-752; *S. and P.* 65-75. John Vicars (*Jehovah-Jireh, God in the Mount,* 1644, 32) speaks of the "bold and waspish young Lord Digbie." Says Baillie (I, 302), "My Lord Digbie and Viscount Falkland, with a prepared companie about them, laboured, by premeditat speeches, and hott disputts, to have that petition cast out of the House without a hearing."

f. 207a] MR. GRIMESTON spake[11] that Bishops might onlie bee reformed; and that the petition of London might bee referred with the Ministers Remonstrance to a committee.

MR. NATHANIEL FINES[12] moved that the London petition might bee committed saiing that it was most iust and reasonable: and soe hee answeared the Lorde Digbies reasons which hee gave against the petition. Then hee fell unseasonablie upon the merits of the cause and argued long about the function and office of Bishops that ther weere abuses in that. Then hee shewed ther was in ther goverment too much of the civill law, and too much of the ceremoniall law: and that manye godlie ministers and others had been vexed, molested and halfe ruined by ther ceremonies. Soe hee wished the petition might bee referred to the Committee.[13]

SIR JOHN WRAY moved that hee conceived wee might as well meddle with Bishopps now as H. 8 did with Abbeies in his time. And therfore hee desired the petition might bee committed.[14]

MR. HOLLIS spake verie patheticallie in the defence of the London petition and against Bishops.[15]

Harl. 164, f. 113a] The Lorde Digbie to explaine himselfe.[16]

MR. PYMME to have etc.[17] MR. COMPTROLLER, not commit this petition at this time.

f. 113b] MR. BAGSHAW[18] moved to have it committed to a Committee of the whole

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[10] For the speech see Rushworth, IV, 184-186; Nalson, I, 768-771; *S. and P.* 188-197.

[11] D'Ewes's order of speeches here is the same as that in his Rough Notes, taken during the speeches, and no doubt is right. D'Ewes made few notes upon these "set speeches," realizing that he could buy them in manuscript later.

The order of speeches in Rushworth and Nalson is of no importance. They have thrown "separates" into their collections almost in hit-or-miss fashion. This speech in Rushworth is IV, 187-187 *verso;* and in Nalson, I, 771-772.

[12] See Rushworth, IV, 174-183; Nalson, I, 753-761; *S. and P.* 22-44.

[13] "Mr. Fines would have the London petition committed etc. For iust and reasonable for office and function of Bishops some things proceede; too much of the civill law, too much from ceremoniall law. The matter of tithes and other civill matters. For the ceremonies they are to bee reiected, that have ruined soe many they might before our vote make what canons they would etc. And then ruine us by the violent pressing of them." Harl. 164, f. 113a.

[14] After Wray, D'Ewes in his Rough Notes, jots down, "Mr. Pledolfe," no doubt William Plydell, member for Wooton Basset. For Plydell's set speech see Rushworth, IV, 186 *verso*-187; Nalson, I, 767; *S. and P.* 206-208. Two editions of the speech were at once printed. See Thomason, I, 8.

[15] "Mr. Hollis. That London petition might bee referred." Harl. 164, f. 113.

[16] Digby was already taking that moderate line which was to get him into trouble.

[17] The words *it committed* should probably be added here. One would like to know just the form of Pym's remarks here. They were brief. Baillie (I, 302) speaks of Digby's and Falkland's speeches and says: "The other partie was not prepared."

[18] Before Bagshaw Peyton (f. 81) makes White speak: "That 4 Will. Conq. the Bishops Baronies weere first given them. . . . 7 H. 8. fol 104 Kelwaies Report it was judged by all the Judges that the king might hold a parliament without the Bishops

Howse. MR. HIDE[19] not to have it committed etc. SIR JOHN CULPEPPER not to have it committed, etc. SIR RALFE HOPTON disliked the petition but wished it might bee referred to a Committee etc. SIR THOMAS BARRINGTON. Another moved to little purpose. MR. CAGE moved not onlie to have the London petition committed but all the rest that came from severall Counties.

MR. WALLER not have it committed.

MR. GOODWINE would have it committed, etc. MR. STROUD would have it committed. MR. HAMDEN to have it committed.

SIR HENRY RAINSFORD against the Committing of it. SIR EDWARD DEERING to have it committed. MR. MARTIN to putt it offe till too morrow morning.

SIR WILLIAM STRICKLAND to have it committed. And soe did MR. CRADOCKE etc. And MR. REINOLDS alsoe. MR. POTTS to committ it. SIR FRANCIS SEYMOUR moved wee might deferre this debate till too morrow morning and then vote whether Episcopacie or not. SIR JOHN CLATWORTHIE to committ it. MR. KIRTON against the committing of it, saied ther might bee Anabaptists amongst them.

SIR EDWARD HUNGERFORD to have it committed; for they pray God to direct us, to committ it.

SIR NEVILL POOLE spake not to have it committed.

MR. SOLLICITOR most honestly to have it committed, for booke of sports ministers questioned.

MR. SELDEN reiect it, 1, for nature of it, it abolisheth Ecclesiam, and that the clergie are the church. 2, The manner of bringing. 3, because wee have matter enough in the ministers Remonstrance.

SIR WALTER EARLE answeared it moderatelie etc. and was for to have all the petitions committed.

SIR HENRIE MILDMAY to have it committed, to a Committee of the whole Howse.

MR. JOHN GOODWIN to have it committed.

MR. WHISTLER moved to have Episcopacie first argued, and noe Committment.

SIR JOHN EVELING to have it committed.

MR. FANE to reiect it etc. MR. PERD spake touching Archbishops etc. and then to have it committed.

MR. VASSALL moved that many able mens hands weere to the petition, etc.

MR. CAPELL moved that it should not bee committed.

SIR ROBERT HATTON spake that noe question might bee putt.

SIR EDMUND MUMFORD moved to have all the petitions committed.

MR. GRIFFIN moved to have some partes onlie of it referred.

MR. HOLLIS saied that the question must bee putt of the whole petition.

MR. TREASUROUR moved that wee all tended to one end, that was reformation, onlie wee differed in the way. Hee desired therfore that those wordes in the petition that strike at the roote and the branch of it.

MR. HOLBURNE against the committing of it.

MR. PELHAM to have it committed, etc. MR. BRIDGMAN not to have it committed. MR. MAYNARD moved to have it committed, and gave many reasons to committ etc.

. . . and 3 R. 2. c. 3. A Parliament was holden *Clero excluso*. . . . Littleton of Cooke's fol. 109a when called spirituall Lords. . . . By Law the Patron did invest the Preiste into the Churche, as Mr. Selden in his booke of Tithes, fol. 86."

This is not Bagshaw's set speech (see Rushworth, IV, 186-187), which comes the next day. Peyton (f. 81) summarizes a speech by Bagshaw on this date: "Mr. Bagshaw saide, nott Episcopacie butt Episcopapacie is to bee reiected, i.e. That Episcopacie which is grounded on Papall principles."

[19] *Cf.* Hyde's later comments on the question of this petition. Clarendon, I, 270-271.

Mr. Crew to have it committed and saied the conclusion and premises might well stand together.

Mr. Chadwell moved that if it weere committed hee desired it might bee referred to a Committee of the whole Howse.

Mr. Robert Goodwin desired the whole petition might bee committed.

Mr. Comptroller spake againe and would have but a parte committed of the petition. Mr. King would not have it committed; but if it should bee committed then to a Committee of the whole Howse.

After some frivolous motions concerning what question was to bee putt, Sir Gilbert Gerrard moved to have it committed.

Mr. Vahun spake touching the petition, and shewed that Mr. Selden did not say the clergie was the church, but the writt etc.

Mr. Rigbie would have it referred. Mr. Palmer not.

Mr. Rigbie Mr. Fines and Mr. Hamden prop[os]ed questions besides the Speakers question.[20]

f. 209a] February 9, Tuesday, 1640.

After some motions of little moment[1] past before I came into the Howse: as soon as I had taken my accustomed place; the Clarkes assistance read a bill, intituled An Act for a reveiw of a decree in chancerie etc, and of a decree in the Starre-Chamber etc, in both which Sir Arthur[2] Harbert was plaintif and others defendants. It was read 2da vice.[3] Sir Nevill Poole preferred the petition of Francis Nevill Esquire who had been sent by us to the Tower the other day;[4] in which hee acknowledged the Justice of this Howse and craved pardon. Soe it was ordered that hee should come to the barre of this Howse too morrow morning and bee discharged.

Mr. Whitakers[5] delivered to the Speaker a packett of letters which came to his hands directed to Sir Francis Windebanke out of the Northren partes: which hee delivered to the Speaker. Some desired they should bee opened; but the greater parte weere against it; and soe the packet was not opened.

Then ther grew a debate[6] in the Howse whether wee should goe on with the matter of Religion and the London petition wheere wee left yesternight, or with the busines of the Northren partes and the releife of the Kings armie. Divers spake on either side; and one MR. WESTON related the deplorable estate and condition the Northren partes weere in, betweene the two armies of the English and Scotts.[7] At last upon ALDERMAN PENNINGTONS declaration that hee thought the 60,000£ from the cittie would bee speedilie provided, that busines was for the present laied aside, and it was ordered, that the Committee formerlie appointed to consider of the Northren partes and the Kings armie should meete this afternoone at the usuall place, and take the same into consideration, and that too morrow morning the howse may consider not onlie of the monie to bee lent by the Cittie of London but alsoe of such other meanes as shall bee thought fitt to raise such other monies as shall bee needfull for the releife of the Kings armie and the saied Northren partes. The place they weere to meete in was the Court of Wardes.

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[20] *Cf.* Gardiner, IX, 281: "Almost every member of note in the House, and very many who were of no note at all, rose to express an opinion on one side or the other. Pym and Hampden, St. John and Holles, the future leaders of the Parliamentary party, were all for the committal of the petition. . . . Hyde and Culpepper, Selden, Hopton, and Waller, the royalists of the days of the Grand Remonstrance, followed Digby and Falkland.

"Slight as the difference might be between those who took opposite sides on that day, their parting gave the colour to English political life which has distinguished it ever since. . . . It was the first day on which two parties stood opposed to one another . . . on a great principle of action."

[1] *Cf.* C.J. II, 81.

[2] Arnold Herbert, according to C.J. II, 81.

[3] First reading, according to C.J.

[4] See above, pp. 322 and note, 323.

[5] Laurence Whitacre, whose diary of the Long Parliament begins in 1642.

[6] D'Ewes's Rough Notes (Harl. 164, f. 115a) read, "Mr. Whitakers Mr. Fynes Mr. Pym," which probably means that Fiennes and Pym took part at this point. These rough notes have been copied, presumably by a secretary, but, although in excellent hand, retain all the characteristics of jottings. From this on D'Ewes's rough notes

Upon SIR HENRIE FANES motion touching the wants of the Kings navie[8] it was added to the order that wee should too morrow morning consider likewise of the ballance of the Kings revenue.

Then after some short motions for our returning to the matter of Religion, ALDERMAN PENNINGTON stood upp and iustified the London petition to have been warranted by the hands of men of worth and knowen integritie.[9] And if ther weere anie meane mens hands to it, yet if they weere honest men, ther was noe reason but ther hands should bee received. And for the deliverie of it, himselfe was one of them who received it from persons of qualitie and worth. It was done without tumult, and then upon a worde after they that came with the petition though many in number departed quietlie. Ther was noe course used to rake upp hands, for hee saied hee might boldlie say, if that course had been taken instead of 15000 they might have had fifteene times fifteene thousand.

Some after this called to have Gloster[10] and Hartford petitions read against Episcopacie: others to goe on to the busines of the day, wheere wee left yesternight, which at last prevailed. But then wee fell into a new dispute what question should bee putt: and some would have the question of Episcopacie putt. SIR JOHN STRANGWAIES rose upp and spake on ther behalfe: saiing, if wee made a paritie in the church wee must at last come to a paritie in the Commonwealth. And that the Bishops weere one of the

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are often in a secretarial hand. For D'Ewes's own use of these copied rough notes, see below, p. 350, n. 27; p. 375, n. 3; and *cf.* Preface.

[7] "The English army being 50,000 pound [in arrears], the Scots army, 30,000 pound." *D.O.* 35.

[8] "Upon intelligence of two great armies preparing in France and Spain." *D.O.* 35.

[9] An answer to Digby's attack upon the petition in his speech the day before. See above, p. 335.

[10] A slight indication of the character of the Gloucester petition is to be found in *Bibliotheca Gloucestrensis* (Gloucester, 1825), Pt. I, xx-xxi.

three estates of the kingdome and had voice in Parliament. MR. CROMWELL stood upp next and saied, Hee knew noe reason of those supposi-
f. 210a] tions and inferences which the gentleman had made that last spake; upon this divers interrupted him and called him to the barre.[11] MR. PYMME[12] and MR. HOLLIS therupon spake to the orders of the Howse that if the gentleman had saied anie thing that might offend, hee might explaine himselfe in his place.

I alsoe spake to the orders of the Howse; and shewed that I had been often readie to speake against the frequent calling men to the barre in this Howse upon triviall occasions. For to call a member to the barre heere is the highest and most supreame censure wee cann exercize within these walls. For it is a rending away a parte from our bodie; because if once a member amongst us is placed at yonder barre (then I looked towards it) hee ceaseth to bee a member. I could not better compare it then to excommunication which was ancientlie accounted the supreame censure of the church, and was greatlie feared; but being abused upon everie triviall occasion is now growen contemptible. And soe will this supreame censure of this Howse, of calling to the barre if wee make a common practice of it. I had reasonable diligentlie perused the originall Journalls of this Howse during the raigne of Queene Elizabeth, and I had observed but three members of the Howse then called to the barre. And two of them weere sent from the barre to the Tower. The third calling to the barre was in a like case as this is when one man tooke exception at another in the Parliament de a° 43° et 44° Eliz. and, it was not allowed by the Howse that hee should bee called to the barre.[13] I therfore moved that if anie man heereafter should without iust cause call another to the barre, that hee might bee well fined.[14]

Soe after I had spoaken MR. CROMWELL went on: and saied hee did not understand why the gentleman that last spake should make an inference of paritie from the church to the Commonwealth: nor that ther was anie necessitie of the great revennues of Bishops. Hee was moore convinced touching the irregularitie of Bishops then ever before, because like the Romane Hierarchie, they would not endure to have ther condition come to a triall.

Then after some motions of little moment,[15] SIR FRANCIS SEYMOUR stood upp and desired to have it put to the Question whether wee should referre Episcopacie or not to bee considered of by the Committee, to which wee intended to referre the London petition. The Lord Falkland and Sir John Culpepper spake severallie that they desired that the busines should bee referred to a committee, but that the same committee might have noe power to meddle with Episcopacie.

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[11] *I.e.*, some demanded that he be called to the bar.

[12] That Pym rises to the defense of Cromwell is some evidence of Cromwell's increasing influence.

[13] See D'Ewes, *Journals of all the Parliaments during . . . Elizabeth*, 675-676. *Cf.* Scobell, *Memorials*, 72-83.

[14] Which motion seems to have prevailed. C.J. II, 81.

[15] At some time during the date of this day, perhaps at this point, Bagshaw spoke. The speech, which is given at length in Rushworth (IV, 186-186 *verso*), Nalson (I, 762-763), and *S. and P.* (99-102), is summarized in Peyton (f. 82) as follows: "The Bishop of Exeters booke to prouve Episcopacie to bee Jure Divino is against the Crowne: for

I moved, That I was sorrie to see the question of Episcopacie or not Episcopacie at all debated: I did conceive ther needed noe dispute about it, and though the same question weere started by a worthie member of this Howse yet it was out of the due time and season. I desired therfore that question might bee laied aside in respect of the ambiguitie of the worde it selfe first, and 2^{dly} in respect of the ambiguitie of the matter. First in respect of the ambiguitie of the worde. For to know what the worde meanes is of great use to the present occasion, that wee make not an Idoll of it. For the worde *bisceop* is an old Teutonique worde, that is intruth an old English worde, and did signifie heere in England before Christianitie was knowen amongst them an heathen preist. Soe Ælfricus that was a master of that toung translates *Flamen* that was a heathen preist by the worde *bisceop*. And after Religion planted heere in the verie Evangelists the high preist amongst the Jewes are commonlie called *Bisceopes*, which shewes what the primeve and genuine signification of it is. The olde f. 211a] Teutonique worde for Episcopacie is *Bisceopscyrre* but the verie worde Episcopacie comes from the Greek worde Επισχοπος which is an old heathen worde alsoe and signifies meerelie a Governour. For soe Diodorus Siculus speaking of Antigonus the Governor of Asia calles him Αντιγονος Επισχοπος τής Ασιας. And this shewes us the calamitie wee are now fallen into; for our Bishops have soe long plaied the Governors, as they have forgotten to play the Preists. Secondlie I desired that this question may bee waived in respect of the ambiguitie of the matter. For if by Episcopacie is meant ther vaine aeriall titles of Lordshipp, the spoiles of the crowne with which they are loaden, and ther vast and tyrannicall power which they exercise, soe as the *totum compositum* of Bishops as they now stand *cum tota sequela* bee meant I saied I must give my I for the committment and my I for the abolishing of them. But if by Episcopacie is onlie meant ther spirituall function as it stood in the primitive and purest times, then I shall give my negative voice. For I should highlie prize a godlie preaching Bishopp, and heartilie wish wee might make ours such. But ther Baronies and Lordships weere added to them in a most corrupt age, and yet ther was some of the Popish Bishops heere in England then, that had soe much pietie, as to abhorre the addition of Baronies to ther Bishopwricks; and did therupon leave both the one and the other and departed away to Rome.

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if it Jure Divino wee could not grant prohibition nor Praemunire against them ect. and further, That many Parliaments have beene without Bishops as those that were before the Baronies were given them, alsoe 24 Ed. 1, 3 R. 2, c. 3. 7 R. 2 c. 12. *Clero excluso*."

And I well hoped if anie of them amongst us now had but pietie and learning left they would as soon as they weere trulie enformed of this particular, like a wearied horse bee willing to bee ridd of ther burthens. Ther titles alsoe of Lordship weere vaine and frivolous; for had one called St. Austen Lorde of Hippo, that was the cittie in Africa wheere hee was Bishop, hee would have interpreted it as a great wrong and iniurie offered him. And for the title of Grace given to Archbishops it could not bee in respect of ther temporall baronies, but of ther spirituall functions; and then it was the same in effect with that of Holines given to the Pope. Nay ther is a Prelate amongst us to whome it was as ordinarilie written *Sanctissime pater;* and *Sanctitas vestra,*[16] as it was to give the title of worshipp to a Justice of peace. I therfore desired that wee might first all of us unanimouslie ioine to remove from Episcopacie those adulterations and intermixtures which wee all disliked, and then I did not doubt but that wee should soe farre proceed with coniunction of hearts and minds, as that ther should not neede to bee anie division of opinions amongst us. I desired therfore wee might for the present lay aside the dispute of Episcopacie or referring it; but referre the London petition as it stood to a select Committee.

After I had spoaken, many[17] moved the matter of Episcopacie might bee left out of the Reference of the saied petition, and others moved it might not at all bee mentioned; but the petition bee generallie referred onlie. And when wee weere likelie to have fallen into a long debate[18] about what question wee should putt, the Speaker stood upp, and desired leave to speake; hee saied hee desired to divert the Question, and seeing now what the generall sence of the Howse was, hee had drawen an order which hee conceived would settle this busines, and soe hee read it being almost verbatim as followeth for some words weere afterwards added to it.

It is this day ordered that this Howse doth referre to the consideration of a select committee, that parte of the Ministers Remonstrance which hath been read and the petition of the inhabitants in and about the cittie of London; and all other petitions of the like nature; which have been read in this Howse, reserving to it selfe the consideration of the maine point of Episcopacie when this Howse shall thinke fitt.

And yet this order did not passe without the dissent of manye; soe as it f. 212a] was at last put to the question; before it was allowed.[19] This being past and ratified then wee fell upon a new debate; to what committee this matter should bee referred: and at last it was agreed that it should bee referred to the Committee of fowre and twentie.[20]

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[16] *I.e.,* the Archbishop of Canterbury.

[17] "Many after *pro et con.*" Harl. 164, f. 115a.

[18] "Mr. Palmer no totall extirpation.
"Mr. Whistler an exception not to abollish Episcopacie." *Ibid.*

[19] *Cf.* C.J. II, 81.

[20] "And question if 6 to bee added and I's most." Harl. 164, f. 115a. For proceedings of this committee in its meetings Feb. 10, 12, 15, 17, 19, see Verney, *Notes of Pro-*

Harl. 164, f. 115a] Mr. Comptroller etc. called in againe because in a question

Two chosen of either side to number of I's, who were 180, Sir Edward Deering and Sir John Clatworthie of Noes which were 145, Sir William Carnabie and Mr. Martin.

And soe six were added to it.[21]

2 of the clocke too morrow in the afternoone in the Checquer Chamber.

The Speaker shewed etc. that the Archbisshopp of Armaghs directions to the Parliament concerning Episcopacie

A scandalous booke now in printing[22] desired to send to the Stationers to suppresse it.

Post Meridiem.[23]

Presently suspended and then a sequestration of the living of Okelie. Mr. William Greenehill *ultimo die Martii* aº. 14º. Car. aº. 1638. William Coe and William Murrell Churchwardens[24] enforced to take out sequestration and to enter into bond of 100£ penaltie to Mathew Bishop of Norwich and Thomas Eden Doctor of the Law.

30 Ministers[24] that preached suspended and not one punished for not preaching though many drones.

Nay a stone in the Tower Church[25] with Ministers names caused to bee stopt upp.

The Chancellour of Norwich and the Commissaries did usuallie in

Excommunicated ministers for not appearing which but stepp aside for a little space out of their Courts having attended there the whole day.

Mr. Wray Mr. Raymond and other Ministers suspended for not reading the booke of sports.

20 Lectures put downe or laid aside to avoid the burdens put upon it [*blank*] forbidd Ministers.

In Wrens 23 iniunction afternoone sermons inhibited.

Cap. 4, Art. 16.

f. 115b] Mr. Thurlbie Minister of Waybread in Suffolke suspended at Bungay in Bishop Wrens time for preaching at his owne church in the afternoone.

19 Iniunction that they should only reade the questions of the catechize and not expound them.

Mr. Nuttall Minister of Saxmondham suspended for expounding the Catechize.

Dr. Peirce Dr. Wren said all hee did hee had the Kings hand and command for.

Mr. Allen said hee heard the Bishop say, Command from his Master meaning the King.[26]

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ceedings in the Long Parliament (*Camden Soc.*, 1845), 4-14. D'Ewes gives a fragmentary account of Feb. 12. See below, p. 355.

[21] *Cf.* C.J. II, 81, for the tellers. Gardiner (IX, 287) suggests that the addition was "resisted by the supporters of Episcopacy, possibly on the ground that they did not expect that the weight of Roe, Holborne and Palmer, who were named from their own side would be equal to that of Holles, Fiennes and the younger Vane on the other." Baillie (I, 302) says: "Our partie carried it, that it should be referred to the Committee of Religion; to which were some four or six more added, young Sir Harrie Vaine, Mr Fynes, and some more, our firm friends."

[22] Usher had prepared a draft of a modified scheme of episcopacy which was surreptitiously printed in 1641 and again in 1642, with a misleading title, implying that Usher had issued "Directions" affecting the Liturgy as well as church government. He obtained an order on this day suppressing it. See *D. N. B.*, under Usher.

[23] Evidently a committee session, apparently the committee that had been meeting about Bishop Wren.

[24] *Cf.* Heylyn, *Cyprianus Anglicus* (1671), 442, where the report of the Commons Committee on Wren is summarized.

[25] Was this possibly St. Mary Towers, Ipswich, where the churchwardens were punished for their contumacy? See Heylyn, *Cyprianus Anglicus*, 295.

[26] The above rough notes are in the hand of D'Ewes's secretary.

Harl. 162, f. 213a] February 10, Wednesday, 1640.

Just as I came into the Howse[1] John Becks was going out with the Serjeant who had newlie taken the oaths of allegiance and supremacie; hee being to bee naturalized by a bill.

The Subcommittee appointed to consider of the abuses of post-masters and posts that carrie letters weere made a Committee, and ther power enlarged: to consider of forraine carriers alsoe; and to draw a statute for the prevention of the like abuses.[2]

Ordered upon the petition of two of the Aldermen of the cittie of Salisburie, that Mr. Mainard should make report of the Election of the citizens ther; on Monday next.

A petition of John Warde of the towne of Shrewsburie, that hee intending to preferre a petition to this Howse, was therfore sent for by Hugh Harris gentleman Mayor of the saied towne, strictlie examined about it, and after committed to prison. Some would have had him sent for by the Serjeant as a delinquent: but the burgesses of the saied towne undertaking the saied Mayor should appeare this day three weekes and in the meane time should release the saied John Warde with which the Howse rested satisfied for the present.

It was agreed in the Howse that Mr. Hollis a member of this Howse having a suite against Sir Anthonie Ashley, Couper (hee named Anthonie Ashley in his baptisme) being an elected member of this Howse, but the election being in controversie and hee not yet admitted to sitt as a member; was allowed to proceede in the suite being in the Court of Wardes and to demand publication of witnesses.

Then after some other little dispute it was doubted whether Sir John Hotham should make report touching the Northren armies and the calamitous condition of those partes, according to an order made yesterday; or whether Sir Walter Earle should make a reporte touching the Irish armie and the dangers threatened therbie. Soe at last was resolved that Sir John Hotham should make his reporte.[3]

Sir John Hotham then beganne and shewed that hee would onlie reporte how the case stood for matter of monie and pay of the armie; which was the maine thing. Hee shewed that it was conceived by the Committee that the fowre subsidies would not amount unto above 240,000£. Of this wee had alreadie borrowed 100,000£ of which 50,000£ was sent to the Releife of the Northren Counties and soe the Scotts armie had received two months pay. The Kings armie received 50,000£ alsoe which was 37,500£

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[1] *Cf.* C.J. II, 81, for minor matters taken up before D'Ewes's arrival.

[2] *Cf. idem.* For some resolutions passed by this subcommittee on Feb. 3, see *Cal. St. P. Dom. 1640-1641,* 453.

[3] Preceding Hotham's report, Peyton (f. 82) gives the following by Pym: "Although it hath nott beene knowne that above one Bill of Subsidy hath passed in one Session, yett that concludes nott the Parliament, but that in emergent and pure necessitie there may bee more subsidies passed."

for one month for the paiment of the saied armie and the garrisons; and 12,500£[4] over in part of paiment of the second month. The 16 day of this instant Februarie ther would bee further due to the Scotts armie 52,000£ and to the Kings armie and the garrisons 125,000£. And besides ther will bee further due Mar. 16 next ensuing for a new month from the 16 day of this month to the Kings armie 37,500£ and to the Scotts armie or for the releife of the Northren Counties 25,000£. Soe that wee saw the present charges did farre exceed the subsidies given. And if wee did not provide, both monie to pay them, and to make all skores even they would never disband willinglie, or bee cashiered.[5]

The Lord Fairfax therupon moved that wee might speedilie passe the amendments in the bill of subsidie and send it upp to the Lords.

Harl. 164, f. 115b] Mr. Treasurer having repeated the summe of what Sir John Hotham had said and added the improvidence of paying an armie from hand to mouth.

That there were treaties of peace abroad, others spake shortly. Mr. Pym to have the Howse resolved into a grand Committee.

I into the Committee being added with others, to the Bill of Subsidie

Mr. Hide in the Chaire.

Resolved upon the question that of the 60,000£ cittie etc. to bee disposed to the Kings army and the payment of the garisons.

Resolved that the Lord Generall bee moved from this Howse to give order to the Commanders of the Kings armie, that before this summe of 50,000£ bee disposed of that the Countrey bee paid after the proportion for a moneths billeting. And that which was first due may bee first paid. Ordered, and the souldiours to have the rest.

Resolved that the next 25,000£ that the Howse shall bee able to raise after this 50,000£ shall bee disposed for the releife of the Northeren Counties. Ordered.

Mr. Whistler reported what wee had done for the bill of subsidie.

So the Speaker went againe into the chaire and the mace and Mr. Hide left etc.

So the amendments in the bill of subsidie were againe read. Some againe moved to have two subsidies added but that was reiected as a thing impossible and against order. f. 116a] Resolved by the Howse that the said amendments should bee ingrossed and the Speaker shewed that it should bee done by labells affixed to the margent over against the places where they are to come in.

The Speaker left the chaire. Mr. Hide againe etc. Then after one motion Sir Henry Mildmay moved about the Navie and Sir Henry Fane iunior spake to it. But then wee fell upon the getting of 15,000£ and Alderman Pennington promised his best furtherance to get it. Mr. Vassall wisht it might not bee moved to the Cittie.

Mr. Pym moved that monie might bee raised out of Proiectors neare 100,000£ out of wine proiectors.

Mr. Kilvert the discovery this was well resented

Resolved that the Howse should bee resolved into a grand Committee too morrow morning at 9, to take this particular againe into consideration.

Then after 12 of the clocke Mr. Hide left the chaire etc. so the Speaker put the same 3 questions and were resolved upon the question as in the Committee.

And then it was moved that wee should too morrow morning take Kilverts information into consideration, and that the Howse should at 9 too morrow morning bee resolved into a grand Committee.

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[4] 12,800£ according to Rough Notes (Harl. 164, f. 115b), evidently a mistake which was corrected.

[5] "If money bee not readie souldiours cannot bee cashierd. Wished therefore wee might get money readie in time." *Ibid.*

Mr. Glyn to make report concerning Alderman Abell.

Sir William Russell Worstershire Starre-Chamber etc. Checquer Chamber touching the Ministers Remonstrance.[6]

Harl. 162, f. 215a] February 11, Thursday, 1640.

Just as I came into the Howse ther was an order drawing upp touching one of Mr. Taylour[1] of the Middle Temple a member of this Howse who being latelie called to the barre was now to performe his assignments or mootes that hee should bee spared till the Parliament weere ended, and not loose anie senioritie by it. I therupon stood upp and shewed that I had been a mootesman, and I knew that it was ordinarie for such as weere to moote to change ther courses. I thought this soe light a matter as that it deserved not an order of this Howse; but that if the sence of the Howse weer made knowen to the Benchers of the same howse it would suffize. Yet the order went on, and the clarke read it thorough.

Then after a petition of little moment, the Committee for St. Gregories church having drawen a declaration how it was to bee presented to the Lords, MR. KIRTON delivered it in. But the forme of it was disliked: and MR. SELDEN spake against it. The effect of it was that the saied Church had time out of minde stood neare Pauls church; that it had been pulled downe against law and that those who had been the causes of the pulling of it downe should build it upp againe.[2] Soe it was referred againe to the same committee to draw upp the saied declaration according to the ancient forme, by way of an impeachment by the Commons: and divers weere added to the same Committee,[3] and they weere appointed to sitt in the Court of Wardes this afternoone at two of the clocke.

Then SIR WALTER EARLE made his report touching the condition of the new Irish armie wheerein hee first shewed the disorders of it and secondlie the dangers threatned by it. The number was 8000 foote, and of them

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[6] The rough notes above are all in the hand of D'Ewes's secretary. For the proceedings of the Committee of Twenty-four (with six men added) see Verney, 4-6.

[1] William Taylor, member for New Windsor, later expelled for remarks about the Strafford trial. C.J. II, 158-159.

[2] "Mr. Selden saide, It was very rare in ancient times to transferre suche causes; for in this cause there is something Civill as the demanding of satisfaction for the losses and dammage of the Parishe of St. Gregories by pulling downe their Churche; and something Criminall, as contayning an Impeachment of a Certaine person, viz. Inigo Jones, for his unjust and illegall execution of the worke, ect: And to transferre together matters civill and Criminill hath beene done of Late times; and noe way, more proper then by Declaration: And though Impeachments doe ever goe in writinge, yett the Commons have nott only given their Impeachment in writing, butt reserved to themselves by Protestation a libertie alsoe of adding to that Impeachment or the matter declared, other Accusations by word of mouthe; whiche was used 18° Jac. in Sir Giles Mompessons case." Peyton, f. 83.

[3] With five members added. C.J. II, 82.

7000 weere papists.[4] They had such a quantitie and stoore of armes, powder and ammunition, as never was in the hands of soe many Irish papists before. Ther disorders weere that they disturbed Protestant ministers in ther preaching. That they had masse publikelie officiated congregating together by the sound of a drumme. That they had seized upon schooles and townehowses; for the celebrating of masse.[5] That they allowed ther Preists liberallie out of ther pay. 2, For dangers. They weere f. 216a] planted in the province of Ulster the ancient seate of rebellion: wheere ther weere now moore Protestants then in all Ireland besides excepting the cittie of Dublin: and soe they could speedilie roote them out; being soe enquartered as within two or three dayes three or 4000 of them might upon anie designe bee drawen together. They weere possessed of and had in ther power all the fortes and portes of the North partes of Ireland besides three magazins.[6] And the Earle of Strafford still continued Generall of them, notwithstanding hee stood impeached of high Treason. That the whole kingdome of Ireland was generallie oppressed with the paiment of this armie, and stood in great feare of it. Hee therfore desired that the Lordes might bee moved to ioine with us in petitioning his Majestie that the saied armie might bee speedilie disbanded.

Sir John Clatworthie added; That the maintenance of this new armie came to 300,000£ per annum the paiment of which besides the paiment of the olde armie was a great oppression to the kingdome. Ther had been a commission to lande these in England or Wales. Hee feared they would raise some tumult or mutinie upon ther disbanding: and therfore wished they might bee sent beyond the seas.[7]

After a shorte motion or two made for ther disbanding:[8] I stood upp and saied, That I did not use to trouble the Howse with long or sett speeches, but with such as weere shorte and extemporarie.[9] I did concurre with them that wished the disbanding of the armie; but not to have it sent beyond the seas to anie parte of Christendome. For the Irish weere firmelie addicted to the Spanish side, they had been great furtherers of the ruine of the Church in Germanie, the ballance of warre ther stood now prettie even. But if this Irish armie should bee sent over to the assistance of the

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[4] Bagwell, *Ireland under the Stuarts*, I, 289-291. *Cf.* Heylyn, *Examen Historicum* (1659), II, 109-110.

[5] "Masse in publike in schooles and townehall." Harl. 164, f. 116a.

[6] "Papists disorders. 2 dangers, armes havens and forts and of 3 Magazins from London Derrie in Ulster the sente of Rebellion. More Protestants there then in all Ireland besides, in great danger. The whole kingdome except in Dublin." *Ibid.*

[7] "Sir John Clatworthie 30,000£ per annum. Earle of Worsters Welsh armies wisht they might bee sent beyond Seas. A commission to land these in Ireland or Wales, 355,000£ per annum maintaines the old army so the expence infinite." *Ibid.*

[8] "Mr. Strode the armie disbanded." *Ibid.*

[9] But see below (391), where D'Ewes tells the House that he was better prepared the day before. It is true, however, that D'Ewes's speeches were most of them extempore.

Spaniard, I did not doubt but that before the end of the summer hee would bee Master againe of Catalanna and Portingall;[10] and then would hee releive the Emperor in Germanie; and bee able to bring downe his forces upon the Low cuntries. I confessed the French King had his owne ends, yet now hee supported the shocke against the Spaniard our common enemie; and the great losse and defeate hee received at St. Omers not long since was cheifelie occasioned by the Irish Regiments who served the Spaniards, and broake thorough the French workes and armie and releived the towne. Wee might learne wisedome of a heathen. For Xenophon relates of King Agesilaus that hee would alwaies weaken his enemies and strengthen his freinds.[11] I wished Ireland weer well ridd of them; but then I would have them sent to the Persian against the Turke.

Then Mr. Reynolds made his reporte from the two committees now ioined in one viz. the Committee touching the Welch popish armie, and the popish Hierarchie.[12] The armie hee saied was raised in Ireland but the scene therof was appointed in Southwales. And the sole power of command ther was transferd unto the Earle of Worster and the Lorde Harbert his sonne both papists. The Lord President of the Marches of Wales[13] who is Lord Leiftenant alsoe alwaies of the same Counties over which hee is president was commanded to give upp his power in seven[14] Counties to the saied Earle of Worcester, viz. in Worstershire, Glostershire, Herefordshire, Shropshire, Glamorgan, Brecknock and Monmouthshire: and this was commanded him by letters bearing date July 7[15] last past this present f. 217a] yeare 1640 which letters though the committee saw not; yet it was infalliblie prooved by a letter sent from the saied Lorde President to the Deputie Leiftenants of Herefordshire, in which hee gave them notice according to the direction sent to him in the saied letters, to bee aiding in all particulars to the saied Earle of Worster in whatsoever hee should command them, according to anie power that should bee given him by commission. These letters sent by the saied Lorde President to the same Deputie Leiftenants of Herefordshire weere dated Jul. 21, 1640, and a copie of them was read in the Howse by the clarke. The saied letters sent to the saied Lorde Deputie weere written to him from the King being then at Oatelands in Surrie, and signed by him. The haven wheere the Irish armie should have landed was Milford haven in Pembrokeshire.

Afterwardes ther weere letters alsoe sent from Sir Francis Windebanke Secretarie of State dated at Oatelands Aug. 1, 1640 to the now Earle of

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[10] Catalonia had revolted in the summer, Portugal in December.

[11] See his *Agesilaus,* ch. VI.

[12] The Committee concerning Mr. Montagu and Sir Kenelm Digby and the Committee for the Earl of Worcester. C.J. II, 78.

[13] John Egerton, Earl of Bridgewater.

[14] The Rough Notes (f. 116a), which for this day are all in the hand of the secretary, make it seventeen counties, a mistake D'Ewes corrects in his finished copy.

[15] July 17. Harl. 164, f. 116a; *Cal. St. P. Dom. 1640,* 483.

Pembroke and Montgomerie Lorde Chamberlaine; directing him because hee had great power and revenue in Wales, to signifie to all his freinds and tenants[16] that they should bee obedient to what the Earle of Worcester commanded them. Whether that intended power weere ever conferred on the saied Earle of Worster and the Lorde Harbert his sonne, or in what manner it was derived to them could not yet bee found; for upon search made ther are extant onlie three commissions, viz. one to the Earle of Strafford by which hee was made generall of the Northren forces or Armie.[17] The 2^d^ to the Lord Cottington by which hee was made Constable of the Tower,[18] and the 3^d^ to the Earle of Arundel Earle Marshall by which hee had a great authoritie given him in the Southern partes of England during the Kings being in the North.[19] But noe commission could bee found granted to the Earle of Worster.[20] Ther was great danger alsoe in North Wales wheere Sir Peircie Harbert (sonne and heire of the Lord Powis) had great power in Montgomerie shire:[21] had gathered much corne together last summer being a great Papist and had taken the armes out of the cuntrie Magazin and brought them into his owne howse.

Ther was alsoe a letter sent from the Count of Rosetta the Popes agent with the Queene to one Father Sandes a Romish preist in Lancashire and superintendant ther as was supposed; in which hee desired them at the Queenes entreatie to fast everie saturday for the furthering of a great worke[22] in hande. The letter was dated at Oatelands Aug. 25, 1640, and sent to the saied Sandes, by Dr. Westbie a popish phisitian in that countie.

Hee added that in 1638 the papists grew soe bolde,[23] as ther growing a division amongst themselves about taking the oath of allegiance some allowing it and taking it; the Jesuites and some seculer preists disallowed it, and soe divers Preists and papists[24]

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[16] "To give order to his tenants and officers in those parts of South-Wales where hee estate." Harl. 164, f. 116b.

[17] "To bee Lord Lieutenant Generall of all his Majesties forces in the North." Harl. 164, f. 116b. See also Strafford to Conway, Aug. 18, *Cal. St. P. Dom. 1640,* 600-601. The patent is in the Carte MSS. See Gardiner, IX, 184, n. 2.

[18] *Cf. Cal. St. P. Dom. 1640,* 629, 652.

[19] *Foedera,* XX, 436-438.

[20] *Cf.* letter of deputy lieutenants of Pembroke to the Earl of Bridgewater. *Cal. St. P. Dom. 1640,* 600.

"The combination of the Papists with Strafford's Irish armie, to have landed, not in Scotland, but Wales, where the Earle Worcester, a prime head of the Popish faction, had commission to receave them." Baillie, I, 304.

[21] "His power seemed to exceede a Deputie Lieutenants." Harl. 164, f. 116b.

[22] ". . . and to pray for a designe in hand." *Ibid.*

[23] "Irelands so bolde as to present a petition touching their owne Hierarchie." *Ibid.*

[24] "Both priests and laymen Catholikes petitioned his Majestie to helpe them against such Jesuites and secular Priests as would not admitt them to the sacrament of the altar for allowing the oath of allegiance.

"2 Dec. 1638, read at [*blank*]

"To disarme the Papists To desire the Lords to ioine with us in this service.

"Mr. Cr" [*blank*] *Ibid.*

Harl. 164, f. 114a] A whole cannon and Demie Cannon of brasse from the towre of London.[25] John Hawley spake to Jaspar[26]

But all this was accounted a matter of noe great moment, the Lord Harbert being much addicted to the contrivement of matters of this nature and that of a long time.

The Speaker having repeated the three reports,

SIR JOHN STRANGWAIES mooved to have the reports to goe on and the papists to bee speedily disarmed.

SIR JOHN CULPEPPER not to disband Irish Army presently, but to disarme papists, hee desired also papists sent from Court and popish Lords putt from the Upper Howse.

THE LORD FALKLAND to have army disbanded etc. I spake etc. to disband in honour. 2, because not sheepe to woolfe. 3, iealousies here and feare if not disbanded despaire will drive etc. *That there weere*[27] 200,000 papists *in Ireland yet the army* cannot lay downe. For Lords papists etc. But then the rest etc. If a Conference too day high time for popish Lords wel advized offe etc. but I thinke some others who etc. for these brought up in what they profes, the others have their mother.

After a short motion or two etc. MR. TREASURER wished the Irish army might not yet be disbanded. Hee did not know they had any fortes, hee hoped not 2,000,000 papists in Ireland. Hee knew besides English there were 150,000 Scotts in Ireland.

Then wee still debated what heads should bee read in the Conference with the Lords whither that only which the three reported or what others had added, soe resolved only that the three reports made should bee the heads of the conference.

Rot. Parl. de a°. 28, E. 3, n°. 2do et n°. 3°. There was warre with France and proposicion of treaty of peace in which the King declared to the Parliament that hee could not proceed in that treaty or end it without the advice of the Parliament.[28]

Rot. Parl. de a°. 43°. E. 3, n°. 1°. glorieth that never undertooke any great action but by advice of Parliament.[29]

A message from the Lords by the Master of the Rolls and Mr. Baron Hendon That the Lords desired a conference presently by a Committee in the painted chamber *touching the treatie with Scotts.* Soe they being gone *out wee agreed to meete presentlie which the Speaker related to them being again called in.*

The Earle of Bristow *managed the conference, showed that the Scotts had now delivered in their 2 last articles.*[30]

It was read by my Lord Dunsmore Febr. 1640, 7 article or demand, *That all scandalous papers and libels printed against them might be burnt.*

8 Febr. 1640, Agreed that all such books libells and Proclamations to bee suppressed, that have condemned the loialty of etc. and that at the end

The Earle of Bristow *spake againe shortlie and delivered in the 8th article.*

10 Febr. 1640, Their 8 and last article of demand was read by the same Lord Dunsmore *which was long.* (*it is in print in the Act of pacification.*)[31]

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[25] "2,000 carriages 6 musket barrells amont to 12,000
"Iron barrell on carriages
"150 pound weight of brasse in every carriage
"3,000 weight of brasse 10 demy canons may bee made out of them." Harl. 164, f. 116b.

[26] "The Lord Harbert hath an ingineir called Jaspar at Foxhall." *Ibid.*

[27] This is the first instance where D'Ewes in his own hand has interlined his secretary's copy of his own rough notes. Such interlineations by D'Ewes I have put in italics.

[28] *Rot. Parl.* II, 254.

[29] See above, p. 192, n. 1.

[30] *Cf.* L.J. IV, 158-159.

[31] *Stat. of the Realm,* V, 120-128.

The Earle of Bristow, *spake concerning the same. The conference being ended after our returne to the Howse Report was made of the same conference.*

f. 114b] Soe upon the question wee allowed the 7th article.

Then wee fell upon debate againe

Die 4 Febr. It was ordered that Sir Walter Earle and Sir John Clatworthy to mannage the Conference touching Irish army and to gett it disbanded.

Mr. Reynolds was added to helpe mannage this Conference.

Soe the Speaker proposed wee might add to the Conference an expression of acknowledgement for the Kings last gracious speech by which hee promised to putt lawes in execution.[32]

And soe much dispute there was againe about the heads to bee proposed at the same Conference to which divers spake much to the same effect as before.

Alderman Pennington shewed that the Citty of London would lend the other 15,000£ desired, though they tooke themselves much iniuried in that it was said that names which had subscribed to avow their petition were a great part of them tapsters and oastlers.[33]

Mr. Pym shewed that hee had received good information from Mr. Kilvert touching the Monopoly of wines and soe hee shewed that divers thousands were in severall mens hands viz. Aldermann Abel and others being 24 in number and the summe came to 143,000£.

Soe it was ordered that the Committee appointed to consider of the Kings Revennue to take into consideration these monies etc. and some few were added to it.[34]

Treasurie Chamber too morrow at 7 of the clocke and the Serieant was to summon such persons to appeare before whose names should bee given him in writing.

Harl. 162, f. 219a] February 12, Friday, 1640.

An act for the new setling of the mannours of Roughey Colley etc. in Surrey and Sussex late William Copley Esquire etc.

The Deputie of the late Mayor of Warham in Dorcetshire came into the Howse, and standing at the barre, the Indenture of Burgesses returned for that towne was carried to him by the clarkes deputie, and ther hee mended it: and the name of Edward Laurence that was returned for one of the saied burgesses was put out by him; and the name of Thomas Earle Esquire was put in, who upon triall of the saied Election was voted to bee iustlie elected.

The petition of the Mayor and citizens of Gloster was read that they have ther eleven churches and but one preaching minister. That at ther owne coste they maintained one Mr. Workman[1] a godlie divine: but hee was called into the high Commission and censured, and silenced. That after the citizens of Gloster allowing him some maintenance weere likewise troubled in the high Commission Court. That Dr. Goodman[2] the Bishopp of Gloster was an enemie to all preaching and godlines: maintaining fidlers in his howse on the sunday, and dancing in the cittie. It was after divers motions ordered to bee referred to the Committee touching Dr. Peirce Bishop of Bath and Wells.

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[32] The speech of Feb. 4.

[33] The Londoners chose to be offended by the imputations cast upon the signers of the petition. The formal version of Digby's speech makes him say: "I look not upon this petition as a petition from the City of London but from I know not what 15000 Londoners all that could be got to subscribe." Rushworth, IV, 171. *Cf.* Clarendon, I, 270-271. Very possibly Digby's words had been actually somewhat stronger.

[34] C.J. II, 83.

[1] See Prynne, *Canterburies Doome* (1646), 103-108.

An act against the oppression of the Stannerie Courts in Devonshire was read the second time. It was moved that it should bee referred to the Committee touching Mr. Coriton; and that Committee was revived; and then it was referred to the same Committee.

MR. HIDE then reported touching the charge against the Judges that ther weere six charged, viz. the Lord Cheife Justice, the Lorde Cheife Baron, Mr. Baron Treaver, Mr. Justice Barckley, Mr. Justice Crawley and Mr. Baron Weston. The Lord Cheife Justice and Baron Treaver weere cheifelie guiltie in the matter of Tonnage and Poundage and denials of Replevin. The Lord Cheife Justice and Mr. Justice Barkley of deniall of Habeas Corpus and Prohibitions, And all of them of the extraiudiciall opinions in shipp monie. But in other crimes they weere severallie guiltie. f. 220a] Amongst all they found Mr. Justice Barkley most criminall and that in nine particulars.[3] 1, When those that made soape weere questioned in the starre-chamber, and had demurred, Ther demurrer was referred to the Lorde Cheife Justice Richardson and Mr. Justice Joanes who overruled it, that the demurrer was void in law and they ought to answeare, but they both saied that they might well putt the same matter into an answeare that they had putt into ther demurrer. Therupon they did it and then the answeare was referred to Mr. Justice Barkley to consider offe: and hee expunged the whole as void except the fowre first wordes and the last tenn lines. Ther weere afterwardes some 45 interrogatories preferred to which they answeared; the answeares conteined about 1,000 sheetes, and these weere alsoe referred to Mr. Justice Barkley who upon two dayes consideration returned 29 of those answeares to bee expunged. Upon which most of those that weere questioned weere sentenced in the starre-chamber not onlie to loose ther trades and to bee imprisoned, but to pay great fines alsoe, one 1500£ two others 1000£ apeice, others a thousand markes and others 500£.

2, His extraiudiciall opinion given in the case of Shipp monie. 3, his extraiudiciall iudgment when hee subscribed his name with other Judges, for maintenance of the Kings levying of Shipp monie, and for compelling the refractorie. 4. his giving his iudgment in Mr. Hamdens case.

5. Hee delivered in a charge given in his circuit at Yorke. That Shipp-monie was an heriditarie flower of the crowne. That the Judges weere in

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[2] Godfrey Goodman, brother of John. Gardiner, IX, 264-265.

[3] *Cf.* Rushworth, II, 606-614, who gives eleven particulars, the last nine of which are those mentioned by D'Ewes.

some cases above the Parliament,[4] and that wheereas some talked of divers Judges that had subscribed ther names for Shipp-monie to bee of another opinion, hee wished for his part, that his hande might rott off; if his judgment did not goe with it.

6. In Mr. Chambers case about shipp-monie in the Kings bench hee would not permitt the Counsell soe much as to question the legalitie of it; seeing it had been adiudged in the Exchecquer chamber: and saied ther was a rule of Law, and a Rule of Goverment; and what the King could not doe by the Rule of Law hee might doe by the Rule of Goverment.

7. At a Sessions kept at the towne of Hartford in Hartfordshire when one Mr. Browne one of the grand Jurie presented a Minister for Innovations in the Church and for refusing to deliver the sacrament except his parishioners came upp to the raile: hee sent him to prison for it, laied irons on him, and forced him the next day to rend the saied inditement in peices and to trample it under his feete. And when at St. Albans his advice was desired by the magistrates ther in a like case of an inditement brought before them for the same cause, hee related to them all that hee had done at Hartford; and wished them to doe as hee had done.[5]

8. Hee had denied the writt of Habeas corpus[6] to divers persons iointlie with the other Judges. 9. Hee had denied prohibitions to divers persons iointlie with the other Judges.

Soe **Mr. Hide** desired of the Howse that they would give them a title to putt to the saied Articles.[7]

Then Mr. Speaker reported the same breifelie over againe to the Howse.

Mr. Hollis spake first, and saied that the crimes of Mr. Justice Barkley comming soe neare to the crimes of the Lorde Finch and being of the same nature with his hee knew noe reason why hee should not alsoe bee charged with high Treason: and soe did shortelie aggravate his crimes.[8]

Mr. Nicholas a Lawyer of the Middle Temple spake next, and shewed that the oppression of shipp-monie was beyond all others; and therfore hee conceived Mr. Justice Barkley to bee guiltie of High Treason.[9]

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[4] "And wished ther hands might rott offe," *i.e.,* apparently, the hands of parliament. Harl. 164, f. 117a. But see below, in D'Ewes's finished version.

Peyton (f. 83) makes Hyde say: "That Judge Barkeley should say That the Judges were above the Parliament in some case; as 1° H. 7 when the king had beene tainted by Parliament by Ric. 3; whom hee had now vanquished; hee consulted with the Judges to know if hee might call a Parliament, notwithstanding that Attainder: who answered That the Crowne tooke away all Attainders. *vid.* 1°. H. 7." See Bacon's *History of King Henry VII,* in Spedding, *Works of Francis Bacon* (Boston, 1860), XI, 61.

[5] "Doings at Hartford etc. At St. Albans badd them doe the same. indictment on 1°. Eliz. Browne one of grand iurie. The rest of grand iurie named Browne." Harl. 164, f. 117a.

[6] "Habeas Corpus denied. Prohibitions denied. Sir Walter Earle etc. 25. H. 8. corne and cattle. Mr. Noy putt the question when Commission of Excize. The statute Hens pullets and other victualls." *Ibid.*

[7] "Mr. Hide shewed that the same was thought fitt to bee forborne." *Ibid.*

[8] "Mr. Hollis thought the stile of this should bee treason spake of divers of the crimes." *Ibid.*

I spake next and shewed that I did with great condolement see soe learned and reverend Judge as this was to fall into soe many hainous and f. 221a] great crimes. For setting aside the Lorde Finches sollicitation the offences *expost facto* weere as great in Mr. Justice Barkley

Harl. 164, f. 117a] Mr. Palmer Mr. Glynne Mr. Maynard Mr. Bagshaw and others noe Treason.[10]

Mr. Perd and others Treason.

Mr. Prideaux shewed that divers exceptions weere taken at the Lordes amendments in the triennial bill; the maine was that they had appointed oath Lord Keeper etc.

Then a message etc. Mr. Hamden about that bill.[11]

First voted that Sir Robert Barckley knight should bee accused by this Howse in the name of all the Commons of England.

2d that a message should goe upp to accuse[12] him and to desire his committment.[13]

[9] "Mr. Nicholas high Treason did aggravate." Harl. 164, f. 117a.

[10] "Mr Palmer did thinke it best nott to Impeach Mr. Justice Barkeley of High-Treason, butt deliver the Articles against him in the Lords house, and there collect the Qualitie of his offence from the substance of the Articles. And for the Judgment of Ship-money, hee did beleeve the Judges did intend noe more then a bare Judgement, and nott all the Consequences of it, that may bee drawne from it, ect. That Justice Barkeleys offence was nott Treason within the 25 Ed. 3 butt whether it was Parliamentary Treason or nott, hee left.

"Lord Falkeland. Barkly fixt the Judgment upon the whole subiect; for, where the other Judges gave their Judgment only in Mr. Hampden's case, when another Ans[wer] of the shipping money was brought into the kings Benche after hee would nott suffer the Plea; and soe foreclosed the whole right of the Subiect by the Judgment.

"Mr Glyn said, hee could nott conceive the Impeachment should bee of Highe-Treason. As for the Intention it must bee prooved first to bee a malicious intention. May nott a Judge erre in Judgment, butt it muste bee thought hee had a malicious Intention? It is nott safe then for Judges to differ in Westminster-Hall, which many times they doe. If a Judge for a Bribe, doe wrong Judgment which is against Lawe; shall it bee saide that hee did it of a malicious Intent to subvert the Lawes of the Land, and consequently the Crowne, and soe begett an Impeachment of Highe-Treason, ect.

"Mr Maynard saide, That if it were spoken maliciously by Mr. Justice Barkeley against the Lawe, That there was one rule of Lawe and another rule of government; hee would nott iustifie him: butt else it might bee spoken properlie enoughe, for certainely the king is trusted by the Lawe it selfe with rules of government, which hee keepes in his owne private breaste, as striking of Leagues, denouncing of warre, ect.

"Mr Bagshawe saide, There was *Crimen Laesi Juramenti et Crimen Laesae Maiestatis,* for the Latter, hee did nott conceive Justice Barkley to have offended soe highe: for the firste it was punisheable by the Stat. 18 Ed. 3 which determines the Punishment of Judges." Peyton, f. 84.

[11] To ask for a free conference with the Lords. C.J. II, 83.

[12] Neither D'Ewes nor the *Journals* indicate anything about the vote on the impeachment of Berkeley. Thomas Knyvett, who was a cousin of Henry Elsyng, and who seems to have kept fairly close tab on what was going on in the Commons, writes to John Buxton (March 2): "The House, I hear since I came, was divided in opinion for making his charge treason, yet the stronger vote carried it." Buxton MSS., *MSS. in Various Collections* (*Hist. MSS. Comn.*), II, 261.

[13] See Whitelocke's account (*Memorials,* I, 117) of the effect produced by this action and his estimate of Berkeley.

Sir John Culpepper.[14]

Mr. Hide moved the Committee for the Judges might sitt this afternoone in the Dutchie Court at 2 clocke afternoone.

Mr. Hamden that the Lords answeared etc. 22 of them in painted chamber at 3 of the clocke this afternoone.

Then the Committee in the trienniall bill named to meete viz. anie 44 of them, for wee must send double the number to the Lords.[15]

Sir Gamaliel Capell and Mr. Arundel a member of this Howse in the Prerogative Court etc. prohibicion[16] etc.

Then after some other motions of little moment[17] The Amendments in the subsidie bill being ingrossed in labels of parchment and filed to the places wheere they should come in.

Sir John Culpepper made his reporte.[18]

Post Meridiem.[19]

Stat. de a°. 3°. H. 7, cap. 1. No place limited wheere those persons are to sitt who first founded that Court which is now called the Starrechamber.[20]

Stat. de a°. 21°. H. 8, cap. 20.[21]

Bishop Bilston[22] Perpetual Goverment of Christs Church.[23] Cap. 12 et 13.

Andrewes in severall Treatises.[24] Bishop White Treatise of Sabboath.[25]

Bishop Davenant in *Determinationibus Quaest. Theolog. Quaest.* 42.[26]

Bishop Montacute now Bishop of Norwich. *Originum Ecclesiastic[arum]*. Tomo. 1°. parte 2da. p. 463-464.[27]

Dr. Pocklington. Sunday no Sabboath.[28] Vertue of a distinct order superior to a preistly Episcopacie that sole power which Bishop assume in sole ordination and sole iurisdiction by biter

Harl. 162, f. 223a] February 13, Saturday, 1640.

A bill or Act for confirming certaine lands to Sir Richard Strode knight according to a former conveiance made to him by Sir Robert Strode knight whose daughter and heire hee married read 1^{a}. vice.

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[14] To take the message. C.J. II, 83.

[15] *Cf.* C.J. II, 83, and L.J. IV, 160.

[16] *Cf.* below, p. 356.

[17] *Cf.* C.J. II, 84.

[18] *Cf.* Rushworth, IV, 188, for the dramatic arrest of Berkeley. Rushworth's account is perhaps taken from a fuller manuscript version of *D.O.* See *D.O.* 37. Several manuscripts of *Diurnall Occurrences* are much fuller than the printed text. See N. and R. Introduction, xliv.

[19] Proceedings in the Committee of Twenty-four. For a fuller account see Verney, 6-7.

[20] See above, pp. 275-276.

[21] *Stat. of the Realm,* III, 304.

[22] "The Ministers aleage" the books that follow as supporting their contention. "All these challenge episcopye to bee of devine right." Verney, 6.

[23] 1593.

[24] See his *Works* in the Library of Anglo-Catholic Theology.

[25] *A Treatise of the Sabbath-day; containing a defence of the orthodoxall doctrine of the Church of England against Sabbatarian novelty,* 1635.

[26] *Determinationes quaestionum quarundam theologicarum,* 1639.

[27] Part II was published 1640. Verney says, "Tomo 1, parte posteriori, page 463 and 464, no 29."

[28] 1636. He published also, in 1637, *Altare Christianum.* "Dr. Pocklington deprived of 3 prebendaries and 2 parsonages, which he had, for writing a book called Altare Christianum, which is to be burnt as being Popish."

An Act for the preventing of the abuses in molting of lead, and for the preservation of the liberties of the plummers of London.

Isaac Knight petitioned that 26 Jan. 1626 hee was for refusing to take the oath ex officio committed close prisoner to the Fleete by the Archbishop of Canterburie, Bishop Wrenn, Sir John Lambe and other high commissioners being then present. Afterwardes hee was dismissed upon giving bonde of 500£ to appeare when they should call him. After which hee being then a tradesman fledd into Holland to the utter undoing of himselfe, his wife and children; and the bonde still remaines in force. Soe it was doubted to what committee to referre it; and I moved it might bee referred to Mr. Prinns Committee of which I was; and it was referred accordinglie.

Then was the case of Mr. Arundel moved againe which was that hee suing Sir Gamaliel Capel in the Prerogative Court in that which was conceived they had noe iurisdiction offe. Wheereupon Sir Gamaliel Capel moved for a prohibition. And that being granted Mr. Arundel was served with a rule of the Kings bench: being a member of this Howse. And this was conceived to bee no breach of priviledge: because the prohibition was not to stopp Mr. Arundels suite but to bring the matter into the right channell wheere it ought to bee handled: and that the rights of the common law ought to bee maintained.

After a petition of noe great moment read about a Shipp cast away upon the coast of Sussex which was reiected, An act for the abolishing of Superstition and Idolatrie and for the better establishing of the true Religion was read 2da. vice.[1] Divers spake shortlie to it and SIR JOHN HOTHAM amongst others moved that care might bee taken and provision made that the monuments of the Nobilitie and gentrie might not bee defaced. Soe at last the bill was committed, and after divers weere named to bee of it, of which I was one; it was at last over ruled upon the question that all who would come should have voices. To meete on Wednesday next at two of the clocke in the afternoone in the Starre-chamber.

Then a motion being made touching the monies to bee lent us by the cittie of London viz. 75000£ to bee sent to the two armies in the North, ALDERMAN PENNINGTON stood upp and saied that though the cittizens weere much discouraged by the not proceeding of the subsidie bill and by

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Townshend, *Diary*, 22. Townshend is referring to Pocklington's deprivation, which the Lords passed on this same day. L.J. IV, 160-161.

[1] "The Bill concerning abolishing of Pictures and Painted Images in Churches read the second time and committed." Peyton, f. 85. *D.O.* (37) says, "There were also Commissioners appointed to go into all places of the Kingdome to remove all altars. . . . there is an act passed for the doing thereof." *D.O.* makes this an act when it had passed only a second reading, and dates it "Friday," Feb. 11, instead of Saturday, Feb. 13.

some malevolent speeches yet this day and monday weere appointed to bring in the monies into the chamber of London, and hee well hoped that all or the greatest parte therof would come in. ALDERMAN SOAMES saied hee did not heare of above 40,000£ like to come in.

Then ther arose a dispute what busines wee should next enter upon. Some moving that wee should presentlie fall upon the debate of the Scotts 8th demand touching the demolishing of forts: others that wee should send upp the subsidie, others that wee should upp to the Lordes to desire a conference about the dissolving of the new Irish armie and the disarming of the Papists in England. And some desired that Mr. Pymme should make his reporte touching what monies weere remaining in the hands of the Monopolizers for wine.

At last wee pitched upon the message to bee sent upp to the Lords about the Irish armie and the disarming of the papists at home. And therupon it was moved that Sir John Hotham had somewhat of moment to communicate to the Howse touching that busines; which was desired might bee added as the last parte of the second head of the intended conference. f. 224a] Soe hee stood upp and saied that hee had a paper in which the same was written: soe the paper was delivered upp to the Clarke who read it. And therin was conteined that ther weere dangerous instruments in the Queenes Court, who had dailie neare accesse to her Majestie being English papists; and did by ther converse with the superiors of the Romish Preists and Jesuites heere, and ther intimation to forraigne States abroad, give great cause to all good subjects, that ther continuance in the Court was full of danger. Those weere Mr. Walter Montague who had latelie been emploied at Rome, Sir Kenelme Digbie who was suspected to bee in orders himselfe, Sir John Winter the Queenes Secretarie and Sir Tobie Matthewes.[2]

Mr. Waller and some others withdrew to the Committee chamber to consider of this paper and to make some reporte of it to the Howse.

MR. HOLLIS moved that Mr. Webb returned at this present Parliament one of the Barons for Rumney in Kent, was found to bee a Monopolizer and soe incapable to bee a member of this Howse; and therfore that a new writt might bee sent out for a new election.[3]

MR. PRIDEAUX enformed the Howse that the Commissions for leviing of the 4 subsidies granted weere to issue out the 10th of this instant Februarie last past: and desired the Howse to advize what course to take. MR. MAYNARD moved that the day might bee amended. But Mr. Speaker shewed the bill could not now bee anie way altered by us having passed the Lordes Howse. But hee doubted not but that after the bill was past, the saied Commissions might bee antidated without danger. And hee added that unles the King gave his roiall assent to the same bill on monday next the 15th day of this instant Februarie all our labour would bee void. (But it was not passed at that time yet noe inconvenience followed.)[4]

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[2] About these men see Rushworth, III, 1321-1331.

[3] Richard Browne returned in his place March 15. *M. of P.* I, 497.

Sir Thomas Roe shewed[5] that all the bookes which had been taken out of Sir Edward Cokes librarie weere now restored to his executors who would deliver them to Sir Robert Coke sonne and heire of the saied Sir Edward. Then it was moved that those three bookes of his viz. His Jurisdiction of Courts, The Pleas of the Crowne; and his Comment on Magna Charta, might bee printed.

Divers spake to it. I moved that they might bee published. And though the two first might bee much illustrated by ancient Recorde, yet I did not soe much stand upon ther examination; But for his comment on Magna Charta; ther was great necessitie that the old Great Pipe Rolls from the first yeare of H. 2 to the end of King Johns raigne: And the old Plea Rolls temp. R. 1 and King John should bee veiwed: without the knowledge of which it was impossible to make an exact comment on the same Magna Charta. For howsoever the preface of it, by the cunning contrivement of Hubert de Burgo seems to implie that all those liberties weere newly granted by H. 3 yet I durst boldlie averre that the subject enioied the greatest parte of them before that Charter at Common law. Besides the Charter it selfe is now misprinted in divers places as for instance in that place about exemption of cartes it is putt in the cart of anye knight or Lorde. The wordes of the Charter are *militis* and *domine:* and it should f. 225a] bee printed knight or Lady.[6] And by this false printing, many Ladies being widowes had ther cartes taken from them against the expresse libertie of Magna Charta. I therfore moved that some well skilled in Records might have the overveiwing of the saied comment. But ther was nothing ordered therin.

Dr. Chafin[7] that was questioned for a sermon preached at Salisburie May 22, 1634, in which amongst other particulars hee had saied, that it should ever bee a part of his Letanie From all lay-puritanes and all lay-Parliaments[8] good Lord deliver us, was called in to the barre, and having first kneeled and being bidden to stand upp and charged by the Speaker: hee made a slender defence, saiing by lay-puritanes hee meant Brownists; and by lay-Parliaments the conventicles of Anabaptists. Soe the cheife sence of the Howse was to send him to the Tower; but other urgent busines diverted us for the present; Dr. Chafin being then withdrawen. For Mr. Waller with the rest returned from the Committee chamber having perused the saied paper delivered in by Sir John Hotham, and reported that the saied Committee conceived the particulars conteined in the saied paper, to bee verie fitt to bee a parte of the conference with the Lordes. Mr. Justice Foster and Mr. Justice Heath weere sent downe with a message from the Lordes, and being admitted into the Howse Mr. Justice Foster delivered it, viz. That the Lordes did desire that the Committee of this Howse appointed for the Trienniall Bill might meete with a Committee of the Lordes (viz. 44 of ours with 22 of the Lordes) in the painted chamber; presentlie if it might stande with the conveniencie of this Howse. Soe the messengers being withdrawen it was resolved by the Howse that the saied committee should presentlie meete the Lordes. And the saied Messengers being againe called in, the Speaker related the resolution of the Howse unto them. Then they being againe withdrawen and gone, the saied Committee to avoid confusion weere called by name and soe went out, one after another.

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[4] An indication that D'Ewes was writing his finished narrative some days after the events recorded.

[5] Before the matter of Coke's books came up "Mr Grimston saide, That Bishops might print their workes without Licence and soe may Judges: butt some held otherwise; for the Bishop of Lincolne was questioned for printed his booke." Peyton, f. 85.

[6] See McKechnie, *Magna Carta, a Commentary* (Glasgow, 1914), 334-335.

[7] Chayfield. *D.O.* 38. But the name was Chafin. See C.J. II, 72, 84.

[8] Lay-Parliament men. *D.O.* 38.

Then it was moved that a message should goe upp to the Lordes to desire a conference of both Howses touching the dissolving of the new Irish armie and disarming of the English papists,[9] when ther Lordeships should thinke fitting. It was at first debated whether wee could send a message to desire this conference first because some of both Howses weere now at a conference, and secondlie because they weere at a conference in the painted chamber wheere the two Howses weere to meete. But in respect wee did not desire a Conference presentlie it was resolved wee should send presentlie and that Sir Robert Harlow should bee the messenger.

f. 224b] Just as Sir Robert Harlow was departing with the message: Mr. Prideaux and the rest of the Committee that had gone to conferre with the Lordes about the trienniall Bill and the saied MR. PRIDEAUX reported that the Lordes had finished the saied trienniall Bill touching Parliaments, and had amended ther former amendments according to the conference yesterday. After which Sir Robert Harlow went away with the same message being ordered to desire the saied Conference presentlie.

Then weere some of the amendments in the Trienniall Bill read, and Mr. Prideaux came and stood by the clarke to assist him.

They had proceeded but a little when Sir Robert Harlow returned with the Lordes answeere which was that ther Lordships would give us a meeting presentlie as was desired. I was then departed out of the Howse, and going upp to the painted chamber I found the convenient places for hearing all filled upp, and soe I departed thence alsoe. But soon after the greater parte of the Howse of Commons repaired thither: and the substance of the Conference was the same as is before sett downe on the day foregoing and on this morning. It was agitated or managed by fowre persons members of the same Howse.

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[9] "And Banishing of Englishe and Scotche Papists from the Courte and to particularize some of them, Mr. Wat Montague, Sir Kenelme Digby, Sir John Winter, and Sir Toby Matthews." Peyton, f. 85.

Sir Walter Earle discoursed of the disorders and dangers of the new popish armie of Irish in Ireland: and soe desired ther Lordships to move his Majestie in the name of both Howses to disbandie that armie.

Sir John Clatworthie followed him and shewed the insolencies of the same armie, and that the yearelie expence to maintaine them amounted to 300,000£.

Mr. Reinolds spake next and shewed the great dangers which weere threatned from the Earle of Worsters designe who in 1639 should have raised an armie of English and Welch papists: and soe desired ther Lordships to move his Majestie in the name of both Howses, that the Recusants both in England and Wales might according to the Lawes of the Realme bee disarmed. And lastlie Mr. Waller desired that the fowre persons before named might bee removed from the Queenes Court.[10] Soe the conference being ended before one of the clock; and many returned from it to the Howse of Commons, the saied Howse rose.[11]

Harl. 162, f. 225a] February 15, Monday, 1640.

The second or new amendments in the trienniall bill read 3 times and soe passed the Howse.

An act for the naturalizing of Peter Fountaine, Jane, Marie, Anne and Hester his daughters, was read 2da. vice. The clarkes deputie was reading it iust as I came into the Howse. It was committed.

An act for the confirmation[1] of a decree in Chancerie, etc. and another decree in the Starre-chamber etc. in both which Sir Arnold Harbert knight was plaintif and others defendents etc. was read: This bill was read before in old Mr. Lownes his name, who being dead[2] since the Parliament begann it was altered into his sonnes name and was now read the 2^{d}. time. It was committed, and the committees to meete this day sennight at two of the clocke in the Checquer Court.

Sir Edward Deering was added to the Committee of fowre and twentie[3] that weere to consider of the Ministers Remonstrance.

Sir John Culpepper was added to the Committee touching the Bishop of Bath and Wells.[4]

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[10] "Mr. Waller in the 4th place desired the 4 *viz.* Mr. Montague, Sir Ken. Digbie, Sir John Winter and Sir Tobie Matthewes might bee removed from Court. This all reported on Friday last in the Howse Febr. 12." Harl. 164, f. 118a.

[11] "At noe committee this afternoone." *Ibid.*

[1] An Act for the reversal of a decree. C.J. II, 85.

[2] Probably referred to in *Cal. St. P. Dom. 1635-1636*, 432-433.

[3] "In the room of Sir Peter Heymen deceased." C.J. II, 85.

[4] The committee was also to deal with the matter of Bowen and Gawler. C.J. II, 85, 86.

f. 226a] MR. GLYNNE moved that one Mr. Gore[5] that had spoaken scandalous wordes touching a speech of Sir Francis Seymors[6] last Parliament being now a member of the Howse alsoe, as if hee had spoaken to little purpose against one of the clergie, might bee sent for as a delinquent. But it was thought fitt first to heare the witnesses before too morrow morning and before the saied Mr. Gore weere sent for.

Then it was moved that wee should send upp the bill touching the trienniall Parliament to the Lordes with ther new amendments, which had passed this Howse this morning. MR. CAGE moved that wee must send upp the saied amendments unto a conference of such Committees of both Howses as had formerlie mett about it. But other ancient Parliament men alledged as did the Speaker alsoe, that wee having added or altered nothing in the saied amendments it should neede onlie to bee sent upp with notice of our assent in these wordes *Les Commons sont assentus.* And soe Mr. Strode went away with the same message.

Harl. 164, f. 118a] Sir Henrie Barcklie[7] and Mr. Hunt burgesses for Ilchester in Somersetshire void, for want of due notice,[8] and a new writt. They had sitten divers months in the Howse, and weere present and withdrew.

Mr. Dunce[9] and Mr. Barkers election for Wallingford is void[10] because not choosen by the Comminaltie,[11] and a new writt to goe out. These gentlemen had long sitten in the Howse alsoe, and weere present and withdrew.

Then a long dispute was how wee should desire his Majesties assent[12] to the triennial bill etc. and

Sir Francis Seymour sent with a message to the Lordes to desire them to intimate to his Majestie ther desire and ours that his Majestie would bee pleased to give his assent to the bill of Triennial Parliament when hee gives his assent to the bill of subsidie, and that wee had sent to his Majestie about passing the same.[13]

My Lorde Buckhurst[14] and Mr. Leeds[15] and a thirde returned. My Lorde to sitt without question, Steynning in Sussex. Soe the question putt upon Mr. Leeds and hee was ordered to sitt till his election weere avoided upon further question.

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[5] "Mr Charles Gore, a Justice of the peace in Wilts." Peyton, f. 85. "Gooe." C.J. II, 86. But the editors of C.J. probably made a mistake in reading.

[6] "The words were, for saying that Sir Francis Seymour's speeche, which hee spake in the laste Parliament; was made by the parson of the parishe and when hee had saide it, hee could nott say Boh to any more." Peyton, f. 85.

[7] Berkely. C.J. II, 85.

[8] There was possibly politics in this move.

[9] Edmund Dunch. C.J. II, 85; *M. of P.* I, 485.

[10] See *M. of P.* I, 485, n. 7.

[11] Politics perhaps here again.

[12] "Mr Pymme saide, That if a Committee bee sent from this house to the king; one muste first goe and desire Accesse to his person, which is usually done by some Privie Counsellour of the house." Peyton, f. 85.

[13] The last part of this paragraph is inserted in the margin. D'Ewes has filled in this whole paragraph after his first writing. There is in the margin just below the last words, this notation: "After awhile the answeare was given as on the other side. Bramstons Peticions 1638 against which may most propperlie come on heere."

[14] Richard Sackville, Lord Buckhurst, had been elected for both East Grinstead and Steyning in Sussex. See *M. of P.* I, 494, n. 21, and 495, n. 4.

[15] Leedes.

Mr. Thomas May and Mr. Crawley[16] to sitt as members of this Howse.

Dr. Chaworth not to sitt upon this election.[17]

Cockermouth in the countie of Cumberland, restored upon the question to send burgesses.[18]

Sir Christopher Yelverton, Sir Ralfe Sidenham and Mr. Bond returned for Bosinnie in the Countie of Cornwall, each had six voices apeice. Sir Christopher Yelvertons indenture came first in, and the writt was filed for that, and it was sent in by the sheriffe. The other two came in after. The right of Election came not in question but the opinion of the committee was that upon that returne Sir Christopher Yelverton ought to sitt till his election weere evicted to be void.

f. 118b] Divers spake pro and con in this busines.

At last upon question ordered, that hee should not sitt.

Sir Francis Seymour made reporte of the answeare to [the] message, was that the Lordes answeared that they had prevented us by sending if wee had not sent when wee did ther Lordships had sent to us about it and that now they would speedilie send to the King, as was desired.

Mr. Treasurour Sir Thomas Roe of the Privie Counsell and others weere sent to the King to desire him some time this day to give his roiall assent to the bill of subsidies. Sir Thomas Roes name continued in, though hee desired to bee excused from going being not very well.

Then a new dispute about the election it selfe of Bosinny and it was declared whollie void upon the Question and a new writt to bee sent out for a new election.

Mr. Pymme moved that Mr Coriton the Mayor of Bosinnie might have noe hande in this new election.

Mr. Cage and Sir Guy Palmes spake against it,[19] as a matter contrarie to law and the usage of the realme and soe Mr. Pymms motion was much distasted by the Howse.

But it was added to the order that this Howse thinkes it fitt that a weekes time should bee given for the election.

Wednesday next at nine of the clocke appointed that reportes bee made from severall committees and friday next to argue the penaltie those have incurred who made the new Canons.

Mr. Treasurour made report from his Majestie that hee and the rest of the Committee comming to Whitehall hee went into the King and found a Committee of the Lords ther. Soe hee acquainted the King of our Committee and assoone as the Lords weere gone they weere called in and the King tolde them hee would send an answeare too morrow morning, to give his roiall assent to the subsidie bill. Then Mr. Treasurour intimated that if it past not too day etc. Soe Committee commanded to withdraw and then called in againe, and the King saied that hee would send an answeare too morrow and that hee was enformed by verie good counsell ther could bee noe inconvenience in deferring it a day or two.

Then upon some rumour spread that the Lordes had given the Earle of Strafforde a weekes time longer it was moved wee should send upp a message to the Lordes to desire them to give him noe longer. Ordered that the Speaker should move this too morrow morning, to bee debated in the Howse.

The witnesses Mr. Horne and Mr. Richard Franklin came into the barre against Mr. Charles Gore touching the wordes hee had spoaken against Sir Francis Seymour about a speech Sir Francis made last Parliament, viz. that a Minister hee named should make that speech for him, and when hee had spoaken soe farre as the saied Minister had penned it hee could not say soe much as boh moore. Soe ordered hee should bee sent for as a delinquent too morrow morning.

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[16] Cawley, not Crawley.

[17] See *M. of P.* I, 495, n. 1.

[18] Politics again, perhaps.

[19] "Mr Palmes moved That Mr Coryton being maior of a Towne might nott sitt in the house; and there is a booke case for it, *puta* 27 H. 8." Peyton, f. 85. *Cf.* C.J. II, 86.

Post Meridiem.[20]

Mr. Stansbies deprivation. Cornelius presented to Bildeston and horrible iniustice and breach of faith in Wrenn refusing Mr. Ashleys breach of Faith. Mr. Colman grand iurie etc. Crueltie against Mr. Scott.

f. 229a] February 16, Tuesday, 1640.

An act was read 2da vice to enable Gilbert Wells sonne of Thomas Wells (being a papist) to sell the farme of Landburne in the Countie of Southampton. Divers spake against it. And soe the Speaker stood upp and put the Question whether the saied bill should bee reiected and divers cried I. But then Mr. Cage stood upp and shewed that the first question must bee putt touching the committment. The 2^{d} touching the engrossing and then if both those received a negative, it was reiected of course: and that question needed not to bee put.[1] And Sir Walter Earle confirmed the same.

Soe the Speaker putt the first question whether the bill should bee committed and divers saied I, and others no. Then the question was whoe should goe out whether the affirmatives or negatives. And it was agreed the affirmatives should goe forth because they weere for a new law[2] but they yeilded it to the Noes, and soe went not foorth.[3] Then was the second question put whether the saied bill should bee engrossed, and ther was not one I for it, but many Noes against it. Soe the 3^{d} question touching the reiecting of the saied bill was not putt, but forborne.

Then was a motion made by Mr. Capell that wee should send upp to the Lords to desire them to give noe longer time to the Earle of Strafforde, to whome they had alreadie given a fortnight since our last impeachment of him of high Treason, which fortnight was to expire too morrow.

Upon this divers speeches ensued, and amongst others Mr. Saint John the Kings Sollicitor shewed that this was not without former presidents: when the Commons had not onlie desired expedition upon ther impeachment; but gone upp and demanded iudgment to bee given: yea and to desire the Lordes to alter ther iudgment. For the Earle of Strafford might at first have been compelled to have answeared presentlie and to have pleaded guiltie or not guiltie.[4]

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[20] For the proceedings on this afternoon of the Committee on Church Government see Verney, 8-10.

[1] "Mr Cage. If a Bill bee spoken to for to bee committed at the second reading, the Question must bee putt, whether it shall bee committed and if that bee desired; next, whether it shall bee engrossed? next, whether it shall bee throwne out of the House? and this is the forme for the Reiection of a Bill." Peyton, f. 86.

[2] "Mr Pymme. If the house disagree upon the retayning or Reiection of a Bill it is the Constant Rule of the house that the Yeas should all goe out." Peyton, f. 86.

[3] As to the usage in divisions see D'Ewes, *Journals of the Parliaments during . . . Elizabeth,* 505; Scobell, *Memorials,* 37-38; and Porritt, *Unreformed House of Commons,* I, 536.

I spake alsoe and shewed that the gentleman who last spake had prevented mee in somewhat which I would have saied. I concurred with him in the substance of what hee had vouched, and knew that our sending upp to the Lordes could bee noe breach of ther priviledge: for in the 2^d^ Session in the Parliament de a° 1° E. 6, A bill being sent downe from the Lordes for the Attainder of the Lord Sudley to the Commons, they after sent particular messengers to them to hasten the passing of that bill.[5] Moore I had to say, but for that time I would passe it over in silence.

Then was a petition of noe great moment read concerning speeches spoaken by one Dr. Franklin against such as gave ther voices with Mr. Potts at Norwich for one of the knights of the shire for Norfolke last Parliament.

Sir Philip Stapleton was sent upp with a message to the Lordes to desire a conference touching ther Lordships proceedings in the Earle of Straffords case by a committee of both Howses in the painted chamber if it might stand with ther Lordships conveniencie.

I went upp after him but neither went in with him nor was in the Howse at his returne for I staied to gett into the Upper Howse in time the King being to passe two acts this morning. But the answeare the Lordes gave him was; That assoon as the Kings Majestie should bee departed who was this morning to come into the Upper Howse: they would send us an answeare by messengers of ther owne.

After the returne of the saied Sir Philip Stapleton to the Howse the Election of the Towne of Warwick was in agitation wheere two Indentures had been returned the one under the seale of the Mayor, and the other by comminaltie,[6] and it was referred backe againe to the committee of Priviledges.

f. 230a] The Lordes being sett in ther roabes and the King come, the Speaker was twice or thrice called for; and being at last come, and entred in at the doore at the lower end of the Upper Howse hee was brought upp from thence to the raile by Mr. Hollis (yonger sonne of the Earle of Clare deceased) going on his right hand, and Mr. Treasurour on his left. Being placed at the raile, I standing alsoe next the saied Mr. Hollis[7] the King spake to this effect, sitting in his roiall seate, in which the order of the wordes spoaken differs. That hee was come that day to expresse the greatest love and respect that ever King expressed to his people in that Howse: for as hee had saied in the beginning of the Parliament that hee would putt himselfe into our hands, soe would hee this day fulfill the same by yeilding upp to us one of the fairest flowres in his garlande, for hee intended to give his roiall assent for the passing of the Act for the holding of a Parliament once everie thirde yeare. Hee therfore hoped, that wee having received soe large testimonies of his goodnes to us, would now beginne to thinke of him, having all this while minded our owne pressures and greivances, and not at all considered his wants. Hee had forwarned us to avoid two rocks: this of the Trienniall bill, and the other touching Episcopacie. The first of those rocks hee would this day remove himselfe, and wished us not to presse too hard upon the second: and then hee supposed ther was nothing which hee should denie us.

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[4] See below, 371, note 9.

[5] See L.J. I, 346, 347; C.J. I, 9.

[6] "Commoners." Harl. 164, f. 119a.

[7] "I stoode within neare him [the Speaker] on his left hand." Harl. 164, f. 119a.

f. 229b] The King added alsoe, that wee had proceeded to the disiointing almost of all parts of his goverment; but hee hoped wee did onlie in that, as a skillfull workeman doth with a watch which is out of order; hee takes it in peices and cleanseth it, and then setts it againe together, without diminishing one pinne of it. For if that alone bee wanting it will not goe right.[8]

f. 230a] After this speech ended Our Speaker having made three low reverences spake to the effect following, viz. That wee weere come this day to manifest the great love and affection of a dutifull and loiall people to a roiall and gracious Soveraigne. That the Commons had commanded him ther most unworthie minister, to present his sacred Majestie with the free guift of fowre entire subsidies which they had granted for the maintenance of his Majesties armie, and for the releife of the Northren Counties. It was yet but a bodie that wanted life, hee did therfore in the name of the saied Commons humblie beseech his Majesties roiall assent to bee given to the same.[9] And soe hee delivered upp the saied subsidie bill which hee had held all the time before in his hande to one of the Lordes whoe delivered it over from one to another till it came to the clarke of the Parliament. Then his Majestie first passed the bill for the Trienniall Parliament, and afterwardes the Bill of Subsidies. And soe wee departed the Speaker going out at the side doore at the lower end of the saied Howse and the Serjeant carriing the mace before him.

Upon our returne to our owne Howse Mr. Hollis beganne and saied wee had great cause to reioice in this dayes worke, and therfore that wee might expresse some parte of our thankefulnes, hee wished that the Bill for the Queenes iointure might bee read the second time, which motion was well allowed by the Howse,[10] and soe the clarkes assistant tooke the saied bill and begann to read it: but before hee had entred verie farre into it, wee understood ther was a message sent to us from the Lords soe the reading of the saied bill was deferred till too morrow morning and the messengers being Sir John Bankes Lord cheife Justice of the Common Pleas and Sir f. 231a] Charles Caesar Master of the Rolls weere called in, and Sir John Bankes delivered the message which was; That ther Lordships weere now readie to give us a conference by a Committee of both Howses in the painted chamber as was desired.[11]

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[8] See *S. and P.* 7-8, or Rushworth, IV, 188 *verso*.

[9] "The king was not without some difficulty (as it was reported) persuaded to give his royal assent." Whitelocke, *Memorials,* I, 117. His assent "hath occasioned much rejoicing in the City, and very many bonfires." Woodford's Diary. Woodford and Pyne MSS., *Hist. MSS. Comn.,* IX, Pt. ii, 499.

[10] "Mr. Selden moved that the Indentures of the election of Warwicke might bee viewed" added in Harl. 164, f. 119a.

Mr. Pymme and some others[12] had retired this morning into the Committee chamber to consider of heads for that conference before Sir Philip Stapleton was sent upp with the saied message to desire a conference: and soe the Howse or the greater part of them going now to the saied conference Mr. Pymme aforesaied managed the same.[13]

Harl. 164, f. 119a] Being returned the Queenes bill was laid aside and appointed to bee read too morrow morning.

Then wee fell into a long debate how wee should expresse our thankes to the king. All agreed for thankes. Some by a small Committee. Some by two honourable persons etc. Some by the Speaker and the whole Howse. I moved the Speaker alone without the Howse for the mouth etc. Others moved to ioine with the Lords.

Just as in dispute Sir John Bankes and Mr. Justice Heath. Joy for passing etc. to thanke his Maiestie etc. us to ioine and to desire Belles and Bonefires etc.

After withdrawen some dispute what answer at last Mr. Speaker by order of the Howse they being called in shewed. Just as they came wee were in agitation about the same busines and that wee should bee readie to ioine with their Lordships at that time and place that should bee appointed by his Maiestie.

Ordered that Mr. Georges petition touching his and Sir Anthonie Coupers election should bee referred to the Committee of Priviledges.

Then upon divers motions made against the exacted fees and high rates of the Court of Wards in compositions etc. Committee Court of Honour and divers added to it and ~~all~~ that would come to have voices.

To consider of the rights of the Court of Wards and the fees and the severall offices there at two of the clocke in the afternoone on Friday next in the Court of Wards.

A petition preferred in the name of all Wales was read some 1,000 hands to it sheweing the calamities of the church there, etc. Lord Bishop etc. to Committee in Ministers Remonstrance.

f. 119b] Sir John Bankes and Justice Heath about one of the clocke brought word that the Lords had sent to the king and hee had appointed both Howses to attend him this afternoone betweene 2 and 3 of the clocke to give thankes by the Lord Keeper in the name of both howses; and they sent in writing the substance of what the Lord Keeper was to deliver which Sir John Bankes had, the effect of it being as followeth.

That hee was to give the Kings Majestie thankes in the name of both Howses and of the whole Kingdome for his gracious roiall assent given for the passing of the bill of the trienniall Parliament which thankfullnes they should bee allwaies readie to manifest by their future care and loialtie: not doubting but that the passing of the same bill should prove as glorious and happie to his Majesties crowne and dignitie as secure and beneficiall to us and our posterities.

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[11] "To expedite the tryall of the Earle of Strafforde as muche [as] reason and Justice doe require." Peyton, f. 87, but put on the following day.

[12] *Cf.* C.J. II, 86.

[13] D'Ewes (Harl. 164, f. 119a) says: "Soe at Conference. Mr. Pym only spake. Desired to hasten the Deputies Triall because hee continued still in his great offices, was generall of the new popish army in Ireland which was yet together, and the head also of the Popish partie in England. That it would ioy the hearts of the people to see an issue of that busines."

Then the Messengers withdrew.

The Speaker reported the said Message to the Howse and then also read the Paper.

Soe it was thought fitt the Speaker should bee present there as Speaker though not to speake.

Post Meridiem.

Betweene two and three of the clocke the King came into the banqueting howse and being set in his chaire a little below etc. The Lord Keeper etc. brought upp and kneeling etc. And having paper in his hand etc. spake as above reading the title of the Act etc.

The King answered hee gave us thankes for our expressions. That if this bill had not beene offered to him hee was resolved to rule by Parliaments, hopeing wee should never have cause to complaine of the infrequencie of Parliaments. And lastly that seing hee thought of us and satisfied our desires wee would in due time thinke of provideing for the Kingdome and himselfe. (I beleive in useing the word Kingdome hee meant the provideing for the Navie and by himselfe that wee should supplie him with money.)

Soone after the Kings speech ended I returned to Westminster and there divers of us sate upon the

12 Apr. 1637. John Wragg to take Mr Prinns man.

13 Apr. 1637. A Warrant from the Counsell to Edmond Barker a messenger of his Majesties Chamber to receive the said Dickens from the Lieutenant of the Tower and to take him into his custodie.[14]

Harl. 162, f. 233a] February 17, Wednesday, 1640.

An act for the confirmation of the Queenes iointure read 2da vice. Soe after one or two had spoaken to further the passing of it. Soe it was ordered to bee committed. Soe a committee was appointed of which I was and they weere ordered to meete friday next in the Starre-chamber, at two of the clocke in the afternoone.

Mr. Tomkins moved that wee might send upp to the Lordes to desire that they would ioine with us to desire that the Judges whome wee weere to impeach might not goe the circuit.[1] Hee was seconded by Sir John Culpepper; in that motion; but the Speaker shewed it was needles for it was alreadie appointed that they should not goe.

Then Alderman Pennington shewed that the greatest part of the 60,000£ to bee sent to the Kings armie and the Northren Counties was come into the Chamber of London: and desired that Sir William Udall[2] might bee appointed to receive 50,000£ of it: to bee sent to the Kings armie and the garrisons in the Northren partes. After divers had spoaken to it, it was ordered accordinglie, that hee should repaire to the Lord Mayor for it.[3]

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[14] All the rough notes for this day are in the hand of the secretary.

[1] "None of the Judges that stand accused before this house are thought fitt to goe the Circuites now designing." Peyton, f. 87.

[2] Uvedale, in C.J. II, 88.

[3] For details see C.J. II, 88.

Soe Mr. Speaker quitted the chaire, the Serjeant removed the mace and Mr. Hide comming into the clarkes chaire, the Howse was resolved into a committee according as had been ordered yesterday: that soe wee might consider of the Kings armie the Northren counties, the Navie and the Kings revenue.

Sir John Hotham spake first and shewed that yesterday ther was 52,000£ due to the Scottish armie, by the agreement of the Northren counties and New-castle. That 10,000£ onlie was provided, hee desired that some speedie course might bee taken to provide the other 15,000£ that the same might bee instantlie sent away.

Soe hee sent upp a paper to the clarke to read in which it was signified by the Scottish Commissioners that upon the 16th day of this instant Februarie ther would bee 52,000£ due to them by the agreement of the Northren Counties, they therfore desired to know when it should bee paied, that they might give an account to them that sent them. Then divers spake to it how to raise monies for the present, and ther was once or twice a verie long silence: wee not knowing how to come by the first somme of 15,000£ for the present. Some proposed to have a new act past for new supplie of monie.

Manie particulars weere propounded alsoe to raise 15,000£ presentlie or rather the whole 42,000£ remaining of the 52,000£ due to the Scotts yesterday. Some proposed to advance the subsidies to an higher rate and value then was last raised, and to lay it upon the gentrie and wealthier men others to borrow monie of the customers. But both these weere utterlie disliked. Then it was advized that wee should still desire to borrow of the cittie, or send to the officers of severall courts; and both these weere well approved, and after long dispute it was at last thought the best way to name a committee[4] that might this afternoone meete and advize of some way by which soe much monie might bee raised as it was guessed the subsidie bill might amount unto over and above the 160,000£ alreadie borrowed.[5]

As wee weere in the midst of this dispute Thomas Earle of Strafford Leiftenant of Ireland came in a barge to the Upper Howse from the Tower; and divers ranne to the East window of the Howse who with those that sate by looked out at the saied windowes opened them, and others went with some noise and tumult out of the Howse soe as wee weere almost whollie interrupted: which made us call the Speaker to the chaire againe f. 234a] and the mace was laied on the table, and the Clarke came againe into his chaire. Then wee advized whether those who had runne out should bee sent for by the Serjeant, or the Howse called over, to punish such as weere absent but then in respect our busines was waightie and this would aske much time to debate[6]

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[4] The "Committee last appointed for the King's Army" was to consider the raising of the money. To it were added members of the Commons and the "citizens and burgesses of London." C.J. II, 88.

[5] 60,000£.

Harl. 162, f. 235a] February 18, Thursday, 1640.

The busines of the Election at Warwick was in controversie when I came into the Howse. The bailif returned one Indenture with two burgesses in it, another blank Indenture, and some of the Comminaltie returned another Indenture with a third mans name. MR. SELDEN spake to it, and then the Speaker did a little open the case. I stood upp and moved that I could not but much wonder how soe many Indentures weere returned this Parliament to the Howse by the Comminaltie of severall citties and Burroughs: and much moore that this Howse did receive them or permitt anie man to sitt as a member of this Howse that was soe returned. For the statute de a° 23° H. 6 cap. 15[1] was plaine and direct; that as the sheriffe was to returne the knights of the shire; soe the Mayors and Bailifs of the corporate townes weere to returne the citizens and Burgesses under a penaltie; and they onlie are to returne them, and noe other; and that under ther seales; for the subscribing of ther name is but a new thing of late yeares. I therfore conceived if anie person weere otherwise returned it was void. For the sheriffe is appointed by the same statute, but *fidus depositarius*, to send in to the clarke of the crowne what indentures hee receives from the saied Mayors and Bailifs.

Soe it was resolved upon the question that Mr. Godfrey Boswelle[2] returned one of the Burgesses for the Burrough of Warwick in the bailifs indenture should sitt as one of the burgesses for the same Burrough, untill his election should bee proved to bee illegall. And it was therupon ordered accordinglie, and this was added to it, that those other two Indentures viz. the Bailifs blanke Indenture, and the other Indenture sent in by some of the Comminaltie should bee taken offe from the writt to which they weere
f. 236a] filed.

MR. HOLLIS shewed that one Mr. Richard Floud[3] a minister having been present yesterday at the committee which sate in the Checquer chamber to consider of the ministers remonstrance, and having heard Dr. Burges speake touching the same remonstrance, being gone from thence to a taverne saied hee had been amongst a companie of rogues that afternoone, who went about to pull downe Episcopacie, and that hee vowed to pistoll Dr. Burges with his owne hande. He had ther strucken divers and the

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[6] For the proceedings of the Committee of Twenty-four (to which six had been added) on Church Government, on the afternoon of this day, see Verney, 10-12.

There was also a meeting of the Committee for Ship Money "about Mr. Bacon's busines." Woodford's Diary. Pyne and Woodford MSS., *Hist. MSS. Comn.*, IX, Pt. ii, 499.

[1] C. 14 is evidently meant. *Cf. Stat. of the Realm,* II, 340-341.

[2] Bosevile, according to C.J. II, 88.

[3] Richard Lloyd, according to C.J.

Constable himselfe who came to keepe the peace; and did to him alsoe avow his resolution to kill Dr. Burges. Hee was therupon carried before the Lord Mayor who had sent him to the Counter: wheere it was desired hee might remaine without baile. Others thought this against the libertie of the Subject.

I stood upp and satisfied all sides by moving that hee might bee taken out of the counter and delivered into the Serjeants custodie as a delinquent and that the witnesses who had heard those speeches might appeare heere too morrow morning to attest the same: and that then alsoe the saied Mr. Floud might answeare his saied offence at the barre.

Then it was moved that great multitudes pressed in at Committees and it was therupon ordered that the Usshers of the Court and such other persons whome it might concerne should looke better to the doores.[4] The Speaker alsoe desired that if anie person should anie way disturbe anie Committee, hee should bee complained offe to the Howse.

Mr. Hollis added that another hindrance of Committees was that such members of the Howse as weere not of the Committee came and filled upp the places soe as such as weere of the Committee wanted roome. Which motion was well allowed offe.

Thomas Coningsbie Esquire who had been a member of this Howse the last Parliament being then choosen one of the Burgesses of St. Albans in Hartfordshire came into the Howse as a delinquent, and kneeling at the barre the Speaker badd him to stand upp: and then a petition preferred against him by divers of the inhabitants of St. Albans aforesaied was read, by which it was sett foorth that hee had used many violent wordes[5] and deedes to hinder a free election ther before this present Parliament and to procurre himselfe to bee choosen a burgesse againe. Hee denied much of the petition to bee true. Soe hee was commanded to withdraw:[6] and it was ordered that his busines should bee referred to Sir Lewes Dives committee to bee heard ther.

I then stood upp and moved that hee had alreadie been kept twentie daies in the serjeants custodie to his extreame expence and charge: and that therfore hee might now bee discharged upon baile given. Which was resolved on and yeilded unto by the Howse after the Speaker had putt it to the question.

Serjeant Wilde a member of the Howse who had been strucken by Sir Henrie Harbert another member at a Committee long since moved that the busines might bee heard: and[7] that Sir Henrie Harbert might bee ordered to leave the chaire in Sir Lewes Dives committee. The first motion was thought reasonable that a day should bee appointed for the first,[8] and till that weere ended nothing should bee done touching the other motion.

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[4] "That the Warden of the Fleet, the Ushers of the severall Courts, where Committees shall sit . . . be commanded . . . that some of their Servants do attend the Committees." C.J. II, 88.

[5] "A scandalous letter written to Mr. Wingate to discourage him." Harl. 164, f. 120a.

[6] "Discharged upon baile." *Ibid.*

[7] The Rough Notes (Harl. 164, f. 120a) add a bit: "then he moved," etc.

SIR WILLIAM UDALL shewed that wheereas Alderman Pennington had related ther would bee 60,000£ brought into the chamber of London on Saturday and Monday last of which 50,000£ should have been received by him to have been sent to the Kings armie in the North ther was but 2100£ ready which relation much troubled us all; and caused SIR BENIAMIN RUDDIER to say; if wee failed of this monie that it would endanger both our honours and safeties; wee haveing ingaged our selves for the paiment of the Kings armie; and the releife of the Northren Counties.

f. 237a] MR. ARTHUR GOODWIN and MR. MARTIN moved to have us adiourne the Howse till next Wednesday in respect that the Lords had given further time till that day to Thomas Earle of Strafford Leiftenant of Ireland to answeare to such articles of High Treason as the Commons had laied to his charge. And MR. MARTIN shewed that the Lords had done it maugre the Commons.[9]

MR. COMPTROLLER spake next, and wished the Howse not to thinke of an adiournment, till wee knew upon what reasons the Lordes had given that further day, which perhapps they did grant according to Justice and ther consciences. Hee liked not that such wordes as maugre the Commons should bee used[10] as if the Lordes had done this to despite us. MR. CAGE shewed that if wee intended to dispute whether wee should adiourne the Howse or not the first question to bee cleared was whether wee could adiour[n] our selves of which hee much doubted.

THE LORD FALKLAND shewed that the Lords had done noe moore then they conceived to bee necessarie in Justice, and therfore wished us not to thinke of an adiournment but to proceede with the great busines of the kingdome, for wee could not doe a better curtesie to the Earle of Strafforde then to iarre with the Upper Howse, or retard our owne proceedings.[11]

I stood upp next (being much troubled that an adiournment had been advized) and spake to the effect following. That wee had treated of manye great businesses since wee had sitten in this Howse for a shorte time. But the present matter wee had now in agitation did in my conceit exceede them all: I saied wee had sitten heere a shorte time, because I measured the time by the little busines wee had dispatched and not the busines by the time. Before the maine matter was entred upon, I desired to cleare two particulars. First touching a word spoaken by a gentleman below (viz. Mr. Martin) and 2^dly^ touching a motion made by my olde neighbour behind mee (viz. Mr. Cage). For the first the gentleman saied that the Lords had given a longer day to the Earle of Strafford maugre the Commons: at which an honourable person had taken exception (viz. Mr. Comptroller) as if therbie hee had intended that the Lords had done it in despite of us. I saied for my parte I did conceive those words might receive a moore favourable construction for maugre is an old Norman word and signifies as much as against the will of another. And I saied that trulie for my part the Lordes giving a longer day was against my will and soe I thought it was against the will of most of the Howse; and therfore I saw noe offence in the saied words. For the other question which was started whether wee could adiourne our selves, I wondred to heare a question made of it, for if I might at all trust an ill memorie I did conceive I might safelie avewe that ther weere many presidents of it in Queene Elizabeths Journalls which I had reasonablie well perused.[12] Nor canne ther bee anie couler to the contrarie but that as the Lordes may adiourne ther Howse, (which they doe dailie) soe wee might adiourne ours. And though wee might doe it, yet I was at this time against the doing of it. First in respect of the Lords themselves who had soe fairelie corresponded with us in all particulars during this Parliament, And therfore I would not condemne or preiudicate this action of thers till I knew the true motives and reasons that ledd them to it. For they had before yeilded to us in two respects (of which the last was without president, and of the first kind alsoe I knew but one president) further I beleeved then ever that Howse had before yeilded to ours, and all out of ther zealous desire, to hasten and further this triall against the Earle of Strafford. The first was to examine such Peeres as should bee produced for witnesses against him upon oath. Of this I onlie knew one president f. 238a] upon Recorde and that was Rot. Parliamenti de a°. 1°. R. 2. n°. 31°. wheere in the case of Sir John Cobham the Peeres weere examined upon oath.[13] But for the other favour of admitting some of this Howse to bee present at the examination of all the witnesses against the saied Earle of Strafford, it is without all president of former times; and this sufficientlie shewes how cordate ther Lordships are in this busines. Besides they take noe exception at us for having manie weekes before wee brought in anie articles of high Treason against them impeached the members of ther Howse. But admitting the Lords had committed an error in this, shall wee doe anie other thing by adiourning our selves but advance the designes of the common adversarie and give the Earle of Strafford new hopes of escaping a iust triall: neither of which cann at all bee feared as long as these two Howses like two orbes doe move each within other in a setled course and harmonie. Besides should they not deale iustlie in the carriage of this busines, wee may follow the presidents of former times without adiourning our selves. I found in Rotulo Parliamenti de a°. 50°. E. 3. n°. 28°.[14] that after the Lords had given ther iudgment against William Lord Latimer (who was greatlie allied as all in this Howse know that know anie thing of recorde) and had past him over *levi manu,* scarce given him a scratch that deserved a stroake, (which was a little higher stepp then to have granted him a few dayes respit) what did the Commons thinke you adiourne themselves noe, but went to the King and required that over and above the saied iudgment given against him by the saied Lords, hee might loose all his offices and bee putt from the Kings Counsell: which was granted. And soe if wee once finde anie unnecessarie delay wee may either take this course, or repaire to the Lords and demand iudgment: tis verie true that the error the Lords first committed was that they assigned him counsell and gave him time, wheereas by law hee was instantlie to have pleaded guiltie or not guiltie. But having once given him time, this latter grace may bee necessitated by the former. But admitt the worst that cann bee supposed, what is this to his Majestie whose safetie and the safetie of the kingdome depend upon our speedie counsels heere. Shall wee forgett our care nay our thankfullnes to him because the Lords have forgotten ther respects to us. Let us remember the late transcendent act of his grace and goodnes to us, which fild our hearts with soe much ioy (and which I hoped I shall never forgett) and let us for that reason alone goe cheerfullie on (at least till wee see what the Lords will doe att ther day prefixed) to provide for the safetie of the kingdome or if this will not move us, let us consider our wives our children our estates our safeties, those *caritates lares et foci* which the verie heathens weere soe carefull of: nay to goe yet a step further let us consider that wee are now providing *pro aris,* not to sett upp altars, but to pull them downe, to abolish Idolatrie, Superstition and Heresie; and to establish true religion in this kingdome to us and our posterities for ever. Let us therfore goe cheerefullie on with the great worke appointed for this day and take into our serious debate and consideration how the Kings armie may bee paied, the Northren Counties releived, the navie supplied, and a blessed and lasting peace for ever setled amongst us.[15]

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[8] To be heard on Tuesday morning next. C.J. II, 88.

[9] "Mr Martin saide, That it was nott a time to thinke of doing of businesse, neither to day, nor to morrowe: nor, till the Lord Strafforde bee tryed, whiche since the Lords have protracted to another weeke; hee could nott call it a denyall of Justice, butt a delay of Justice; and in some cases a delay is a denyall: and further saide that they had done it maugre the conference. Alsoe, if a poore rogue bee taken butt the day before the Assizes, hee shall bee tryed the next day; and is asked if hee bee guiltie, nott if hee bee readie, and how hee will bee tryed, nott when hee will bee tryed." Peyton, f. 87.

[10] "Mr Controller saide, That the worde maugre used by him that last spoke was of a sence to sharpe to bee used in suche a direction, and therefore desired forbearance of all hard expressions." *Ibid.*

[11] "Mr. Strode to lay by all busines of money." Harl. 164, f. 120a.

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[12] D'Ewes, in his *Journals of all the Parliaments during . . . Elizabeth,* says (318): "It is also in the power of either house, when they shall think it expedient to adjourn itself." An uncatalogued manuscript in the University of Minnesota entitled "Observations, Rules, . . ." and dealing with procedure in parliament, records (f. 44) a resolution of 1 Jac. 1 to the effect that "that house by itself and of itself might be adjourned."

[13] *Rot. Parl.* III, 8.

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[14] *Rot. Parl.* II, 326.

[15] The C.J. contains no evidence that the advice was followed.

Harl. 164, f. 120a] Assoone as I had done, a message from Lords.

Mr Justice Heath and Mr Attournie, to desire a Conference by a Committee of both Howses etc. touching the sequestration of Earle of Strafford.[16] Wee resolved the messengers being gone out to meete. Soe called in etc. meete presently etc.

Reporters named. Sir Walter Earle etc.

Wee went Earle of Manchester etc. They had considered our reasons given at the last Conference and the danger and would ioine with us for sequestration.

Being returned Sir Walter Earle made the report etc. then in agitation to put the question whether wee should ioine with the Lords and as it was debated, The same Messengers came againe from the Lords to desire a free Conference etc.[17] I was not present at it. The Messengers withdrawne.

The Lord Privie Seale beganne. The Lord Strafford called to the barre they called for his answer Hee made Protestations etc. of his Counsell etc. noe time lost[18] or labour spared.

28 Articles etc. and some things acted 14 yeares since.

200 sheetes[19] answer. Many things by the Earle himselfe.

Counsell last. All satisfied Mr. Lane Mr. Low of Moore.

Wednesday next for his answer, per

f. 120b] Then Earl Marshall said they were earnest to have the Counsell to their oathes.

The Earl of Bristow said Son the Lawyer had beene 14 daies in preparing his answer.

Mr. Tomkins moved that there was a former order of this howse that none should goe to the Tower etc. Sir John Strangwaies etc. in a roome neare Upper Howse etc. but not at Tower etc. soe all counted that a toy etc. and Mr. Tomkins confest hee intended they went not to the Tower.

Mr. St. John Sollicitor shewed that this proceeding of allowing the Earle of Straforde Counsell and giving him libertie to put in his answer in writeing and giving him further time were contrarie to all use and against law that therefore wee ought to advize upon[20] it and to send to the Lords to let them knowe so much in a free Conference which motion was seconded by others and that a Committee etc.

This afternoone in the Treasurie Chamber at two of the clocke Mr. Selden, Mr. Palmer, Mr Whitlock, Sir Simonds D'Ewes, Mr. Whistler, Mr. Glyn, Mr. Hamden Added to the Reporters.

This Committee to take into consideration the whole matter of the report of the free Conference[21] now made and also what concernes the right of the Commons in the proceedings in the Lords Howse against the Earle of Strafford and what concernes the Kingdome in generall in the Legalitie of those proceedings and likewise to consider what is fitt for the Commons to claime in like cases of Impeachments[22] and are to meete this afternoone at two of the clocke in the Treasurie Chamber.[23]

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[16] "Sequestration of all the offices of the Earle of Strafford . . . especially of Lieutenancie of Ireland, Generalship of the kings forces there and Presidentship of Yorke." Peyton, f. 87.

[17] "Wherein they shewed the reasons whereby they were induced to give longer day to my Lord Strafforde." *Ibid.*

[18] "As that his Counsell had nott yett time to oversee the foule draughts of his owne drawing." *Ibid.*

[19] "That his answer amounted to betweene 2 and 300 sheetes of paper." *Ibid.*

[20] "Notwithstanding these reasons, the Commons were ill satisfied; and did take notice of a convenient inclination in the Lords of too muche favour." Peyton, f. 87. *Cf. D.O.* 40, who says that the Commons were "somewhat better satisfied."

[21] "Mr. Pymme. In a free Conference nothing can bee spoken butt what hath passed before the house: and therefore wee may nott speake to anie new matter." Peyton, f. 88.

Harl. 162, f. 240a] February 19, Friday, 1640.

After some motions of little moment, An act fore making of shipp-streames in the river of Wy and betwixt Weymouth and Hereford was read 1ª vice.[1]

Just as I came into the Howse the petition of the Countie of Chester was in reading preferred by SIR WILLIAM BRUERTON one of the knights of the shire for Cheshire against Episcopacie and the manye abuses of ther courts; and the innovations in Doctrine and discipline. It was subscribed by above 1100 hands.

Then MR. NORCOT[2] shewed that a petition from the Countie of Devon to which divers of the gentrie had subscribed might bee read which was read accordinglie; and being the same in effect with that of Cheshire: Both weere referred to the Committee that was to sitt upon the Ministers Remonstrance with the same limitations that London petition was referred to them.

Then MR. HIDE stood upp and made Report from the Committee that was to consider of the Earle Marshals Court of which I was one. Hee shewed that the patent of the Earle Marshals office granted to the now Earle of Arundel[3] did beare date the 10th day of Aprill aº. 19º. Jac.[4] Yet ther was no setting upp[5] of anie Earle Marshals court untill the 1 of March 1633[6] when the first cause was adiudged ther. And soe this court was sett upp when ther was noe moore hope of Parliaments,[7] and when the Common law was declining in its power and honor.[8] Tis true that a way was prepared for this designed Court in 1630, in Mich. terme aº. 6º. Caroli, when ther arose a contention betweene Mr. Jones a churchwarden in London and Mr. Thompson one of the Heralds.[9] The Earle Marshall first imprisoned Mr. Jones and then hee obteined an Habeas Corpus. After hee imprisoned him againe; then hee obteined a second Habeas Corpus.[10] Then my Lord Marshall sent againe to seize upon him at the verie Kings bench Court assoon as hee was freed from his imprisonment by the same Habeas Corpus.[11] Upon which at last the matter came to bee heard before the Kings[12] Majestie. At first[13] ther was 20 markes damages given and 30£ costs; but now of late 100£ and 50£ damages and as much in costs of which hee cited divers presidents; and in one case the Lord Matravers (for hee iudgeth ther as well as the Earle Marshall his Father) a little after the dissolution of the last Parliament gave 500£[14] damages.[15]

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[22] "A Committee therefore was appointed to take into consideracion the report of the conference (and 1, why Counsell should bee allowed to him? 2, Why hee should see his Articles drawne against him for proofs of the Commons generall charges, being the Kings evidence, and ought nott to bee discovered? 3, Why hee was given the libertie to make answer in paper) and what concernes the right of the Commons in the proceeding of the Earle of Strafforde, and the legalitie of those proceedings." Peyton, f. 88.

[23] All the rough notes for this day are in the hand of the secretary.

[1] *Cf.* C.J. II, 89.

[2] This is, I think, the first time that Northcote rose to his feet. He speaks again on Feb. 27. Even on Feb. 8 when everybody was giving his opinion, he remained silent. Perhaps his neighbor, John Bampfield, was joking when he wrote (Jan. 9, 1640/41) to Edward Seymour, of Northcote, that he "will prove an excellent member of your house, if you can keep him silent." Somerset MSS., *Hist. MSS. Comn.* XV, Pt. vii, 64.

[3] "After some other busines had passed in the Howse, Mr. Edward Hide an utter Barrester of the middle Temple who sate in the Chaire in the Committee touching the Earle Marshalls Court of Honour and the late illegall and unjust proceedings therin made report what the Committee had done therupon, and so he began first to shewe the small beginnings of that Court and to what exorbitancies it was arrived before the beginning of this Parliament, and as the foundation of the whole he first shewed what Letters Pattents of the Earle Marshalls place had been granted to Thomas Earle of Arundell and Surrey the present Earle Marshall." Harl. 164, f. 120b. For this day and the next, there are preserved both D'Ewes's rough notes (ff. 124a-124b) and his secretary's copy to which D'Ewes has added his comments (ff. 120b-122a). I have used the latter but noted the variant readings.

[4] August 29, 1621. *Cal. St. P. Dom. 1619-1623*, 285.

[5] "Noe notice of a Marshalls Courte." Harl. 164, f. 121a.

[6] "And then appeares the first Record to bee made of that Courte." Peyton, f. 88.

In the case in which complaint was made against one Mr. Warner;[16] Dr. Ducke and Mr. Lane the Princes Attornie did come provided after long time given to make defence of the proceedings and iurisdiction of the same court: and being demanded whether they could produce anie one president that, ever the Constable and Marshall did hold plea of wordes. And 2dly if they could produce anie president that the Marshall could hold a Court without the Constable:[17] and they both confessed they could not. Soe it was therupon voted at the Committee[18] that the Constable and Marshall could hold noe plea of wordes. And that the Earle Marshall could hold noe Court without the Constable.[19]

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[7] "Then was it generally supposed that wee should have noe more Parliaments." Peyton, f. 88.

[8] "Then first cause Common law downe." Harl. 164, f. 121a.

[9] "About a seate in *Hackney Church.*" *Ibid.*

[10] "Thompson threatning a Justice of peace, Jones *brought* a Habeas corpus and a 2d Habeas corpus: *but the Earle Marshall disobeied both of them.*" *Ibid.*

[11] "In Easter terme, 7º Jacobi *Jones was* discharged. Crosse tooke him by force of a [new warrant, f. 124a] warrant and in facie curiae *viz. of the Kings Bench.* By Crosse a Messenger etc." *Ibid.*

[12] "Then be Committed to the Marshalls *of that* Court etc. Soe the cause *was heard* before *the* King." *Ibid.*

[13] "The course held etc. to send for *parties as prisoners by the Earle Marshall.* Both Plaintif and defendant *weere forced to* enter into bond to prosecute and not to compound." *Ibid.*

"The Processe of the Court is, First the Lord Marshall sends a warrant (butt sometimes a monition firste goes, and then a warrant if that bee nott obeyed) which is an Attachment by a messenger who deteynes the person as prisoner, till hee putts in bond to appeare to answer that Courte *de die in diem.*" Peyton, f. 88.

[14] "The Censures of the Court upon words given are 40£, 60£, 100£, and at one sitting were given by Lord Matravers in one day, 500£ dammages." Peyton, f. 88.

[15] "Then they fell on dead men. Heralds claime certaine Fees. Mr. Say *a lawyer* but advising a widow not to pay *those fees* etc. questioned by Mr. Philpot Somerset *Herald* etc. Soe *the saied Mr. Hide* cited 3 or 4 causes in which 50£ and an 100£ damages given for slight words, and a litle after the dissolution of the last Parliament, The Lord Matravers gave 500£ damages for hee exerciseth the same power as the Earle Marshall, *being but his deputie.*" Harl. 164, f. 121a.

[16] "In Mr. Warners case against two or three clothiers in that Court which Clothiers now sought remedy." *Ibid.*

Before this came to bee voted in the Howse, SIR RALF HOPTON spake that because much danger might arise by wordes if ther weere noe remedie for them, some other course might bee taken before wee passed anie vote in this particular.

I shewed, That having my selfe attended this Committee, I found another greivance in the Earle Marshalls proceedings, which these questions or votes would not reach. f. 241a] And those weere the extraiudiciall proceedings in his chamber: when ther was noe libell depending in his Court. Ther ordinarie course in this case was, that upon complaint onlie made before ever the partie complained offe weere heard, a messenger was sent for him to bring him upp to London, whatsoever the season of the yeare weere or the parties occasions. The messenger alsoe was to bee paied certaine fees. Being brought to London the partie was presentlie imprisoned, and ther deteined in prison till hee should enter into bonde to appeare againe whensoever hee should bee sent for. And the least penaltie of those bonds appeared to bee 100£. Soe as if the partie weere either sicke or from home when hee should bee sent for hee must of necessitie forfait his bonde. By which proceedings the libertie and proprietie of the Subjects of England weere directlie taken away and ther verie lives by enforced travaile and imprisonment endangered.

After a little further dispute, The first question was voted in the Howse, That the Constable and Marshall could not hold plea of wordes.[20]

When the second question came to bee voted: Divers spake to it to have hindred it: alledging that if the Earle Marshall had not power to punish wordes divers duells might ensue.[21] It was saied alsoe that the Earle of Essex in Queene Elizabeths time being Earle Marshall did give sentence upon a quarrel which had fallen out betweene Sir Edmund Withipole knight and one Mr. Felton: which quarrell first beganne betweene ther wives: although the saied sentence weere never executed, but that the same made afterwards useles through the mediation of freinds.[22]

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[17] "Without the constable joyned to him." Peyton, f. 88. *Cf.* C.J. II, 89.

[18] *"Soe Mr. Hide made report of two votes past in the negative."* Harl. 164, f. 121a.

[19] "All said, no, *upon the putting these questions, at the Committee." Ibid.*

[20] *Cf.* Peyton, f. 89; C.J. II, 89.

[21] "Sir Ralph Hopton saide, That the statute of 13 R. 2, c. 2, doth indeed limitt the Earle Marshall's and Constables Courte nott to hold plea of any thing belonging to the Common Lawe: butt where the Lawe provides noe remedie, it is without reason that offences should goe unpunished, ect.

"Lord Falkeland. They that hold Plea of any causes should produce ther right and power of Jurisdiction by which they hold, and nott putt those on whom they exercise their power to doe it, ect.

"Mr Maynard. The Common Lawe can punishe men that speake wordes to dammage another: and the Spirituall Courte takes Cognizance of Defamations, ect.

"Mr Whistler. If the wordes bee menaces every Justice of Peace may give remedy.

"Mr Maynard. Tis the Lord Cheife Justice of England's care to prevent and correcte Duelists." Peyton, f. 89.

I stood upp and shewed that, The Earle Marshall had ancientlie a power to prevent unlawfull duells, as hee had to order legall duells: which weere used both in civill and criminall causes. And the champions that weere to fight had often Masters to teach them with many other right and usages which concerned the same: of which ther weere neare an hundred instances in the great Pipe Rolls of H. 2. The Earle Marshalls patent now granted to him is but for life, and in that ther is power given him to exercize all such iurisdiction as the ancient Earles Marshall enioied and in the elder ages this office was hereditarie. The Earles of Pembroke whose sirname was Marshall enioied it long. The daughter and coheire at length of that familie who was maried to Hugh Bigot Earle of Norfolke and overlived him enioied the same (and it was necessarie it seemes that a woman should enioy it seeing quarrels may grow betweene women). The saied Countesse Marshall as appeares in the Communia Rolls of H. 3 (it is *Communia ex parte Rememoratoris domini Thesaurarii de a°. 31°. H. 3, Rotulo* 2do) gave upp the saied office to Roger Bigot Earle of Norfolke her sonne. And for the iurisdiction now exercized ther contrarie to law I saied, I knew my Lorde Marshall was soe noble as hee would never have putt it in practice if hee had knowen the same. And therfore those Civilians onlie who practiced in that court and made a gaine ther weere in the fault; by whome it was likelie the Earle Marshall was directed therin. For to give the Earle Marshall therfore further time to answeare or to deferre the voting the 2^{d} question would bee needeles. Wee might if neede weere thinke of some new law to prevent duells. And for anie records the Earle Marshall could find f. 242a] to warrant and iustifie the proceedings of his court, though I knew hee had lately imploied one to search in the Tower for them, yet my opinion alwaies was and still is, That they are written or inrolled in dorso of the Donation of Constantine.

Harl. 164, f. 121b] Then a second question putt. All cried noe. Com: Rol: de Anno 31°. H. 3, Rot. 2do. If need a Law to bee made.

Then it was propounded that wee should put the question That the Earle Marshalls Court was a greivance which question Mr. Hide had confessed that the Committee had not voted it.

One moved that wee could not put a question which had not been voted at Comittee etc. Divers spake etc. and I shewed the question might be put as in Sir Christopher Yelvertons case, a new question put. Wee may disvote etc. I moved to put,[23] The late pretended court called the Earle Marshalls Court was a greivance.

Then after some short debate this question was put and voted.

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[22] "The Earle of Essex's his proceeding betweene Whitipole and Felt was by Commission, and rather an arbitrement then iudiciall." Peyton, f. 88, where it is given as part of Hyde's report.

[23] "putt it." f. 124a.

Then the LORD FALKLAND moved that it might be referred to the same Committee touching the Court of Honnour to consider. 1st. what were the causes of those greivances.[24] 2ly, the Crimes of them who had brought them in.[25] 3ly, how the parties greived should have Reparation. 4ly, to frame this into a bodie to transmit it to the Lords as a charge.

Then it was disputed what wee should doe next and much time was spent in the debate whether wee should presently resolve our selves into a grand Committee or not to take into consideration the affaires of the Two Armies in the North who were represented to bee in a most dangerous posture by reason of extreame want and that if some speedy course bee not taken all thinges will grow into a dangerous[26] condition.

At last it was resolved that wee should deferre this debate till too morrow morning. Some would have had the question put for the [*blank*][27] as well as for providing money for the Northerne Armies. Divers spake to have all put in a question, others to have but that part put which concerned the Kings Army. I spake to have the single question put and that being resolved on wee might fall upon other matters if wee had time.

Resolved upon the question that the House should bee resolved to morrow morning at 8 of the Clock into a grand Committee to consider of some speedy and present supplie of monies for the Kings Army and the northerne parts, and for other urgent occasions concerning the safety of the Kingdome.

Then it was moved that the Speaker should write to the Lord Maior etc. first question about title. Then the heades the Speaker said he would adde amongst other thinges wee had found noe fruite. I stood up and desired that because that clause might give distast he would put in that wee rested assured to finde fruite by it. f. 122a]

I was[28] in the Chequer Chamber expecting the Committee touching Mr. Prinne of which I was one should have sitten, but when Company came not there being foure of us wee adiourned the Committee.[29]

Harl. 162, f. 243a] February 20, Saturday, 1640.

Just as I came into the Howse the Constable and divers other witnesses weere produced at the barre and heard against Mr. Richard Floud, and did averre that the saied Floud had affirmed that all such as opposed Bishopps weere rogues, that hee would carrie a rapier and a pistoll about him to kill all such as should oppose Bishopps, and that hee would first beginne with Doctor Burges whome hee called rogue. That hee strucke divers; and all this was done on wednesday last in the evening after hee came from the Committee for the Ministers remonstrance. Soe the saied Mr. Floud being called in denied all, and having withdrawen himselfe, it was awhile debated what wee should doe with him. It appeared that hee was a kinde of distracted man; and soe at last it was resolved to send him backe againe; to the Counter for him to bee tried at the next Sessions to which hee was alreadie bound over.

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[24] "What the Greivances were." Peyton, f. 89, who gives these as the final resolutions.

[25] "The degree and nature of the offence in usurping the jurisdiction." *Ibid.*

[26] "most dangerous." Harl. 164, f. 124a.

[27] "Navie the Kings Revenue." Harl. 164, f. 124b.

[28] "Post Meridiem." Harl. 164, f. 124b.

[29] For notes of the Committee of Twenty-four (to which six had been added) on this afternoon, see Verney, 12-14.

This being past ther was a dispute what busines wee should next thinke offe, and at last it was agreed that wee should resolve the Howse into a grand committee according as it had been ordered yesterday to debate of the releif of the Northren counties and the Kings armie and other necessities of the kingdome. And soe the Speaker left the chaire, the mace was removed, and Mr. Hide was called to come and take the clarkes chaire which hee did.

Ther followed after a prettie silence, untill my Lorde Fairfax beganne and shortelie shewed the necessitie of the Northren partes. Mr. Kirton saied that if wee could not provide for monies wee should provide for our safeties. Another saied that if wee had not credit for the monie alreadie granted in the 4 subsidies to what end should wee put a second question for two new subsidies. Mr. Kirton moved againe that hee should bee willing to give two subsidies or moore soe as hee might know the end of our charge, and that wee might by conference with the Lords, see how farre the treatie with the Scotts was advanced.

I moved, that before I spake myne owne sence I would answeare some objections which had been made against the giving of two subsidies. First it had been objected (by Mr. Kirton) that if wee could not provide monie wee should provide for our safeties. This objection was answeared in it selfe, for if wee provided for our safeties it must bee by monie to maintaine an armie; and if wee could finde monie to doe that wee weere much better to find monie to add an end to this treatie of peace without anie expence of bloud. For the next objection (made by Mr. Kirton alsoe) that wee should first have a conference with the Lords to know how the treatie of peace with the Scotts proceeded before wee gave two subsidies, wee weere to remember that the rubb on which that Treatie stopped remained now with us, and therfore wee weere to satisfie the Lords in that particular and not they us. For the Scotts eighth demand (touching the slighting and demolishing of some new fortifications)[1] did yet rest undetermined in this Howse. And as to the thirde objection that seeing wee had not credit to borrow monie upon those fowre subsidies alreadie granted it was in vaine to grant anie new, I saied for that verie reason I would grant two moore presentlie that soe at last wee might bee masters of somewhat of our owne and not bee putt to this continuall exigent of borrowing. Besides wee weere bound both in honour and by necessitie to make this grant of two subsidies in such due time and with such speede as it might come in time to supplie the necessities of the Northren parts and the Kings armie: for the maintenance and releife of both which wee had ingaged our selves; soe as in us the worde and promise of the whole kingdome was alsoe plighted and voted. Wee would bee loath to breake our words each to other as private men; and therfore wee ought to bee much moore tender of our publike faith given to his Majestie and the Northren Counties. I knew two subsidies moore could not but bee burthensome to the kingdome; but withall wee f. 244a] must consider that our estates and safeties and all lay at the stake: wheerefore I saied that for mine owne parte I would sell my plate to discharge my share in it if I wanted other meanes rather then it should not bee discharged. Nor would ther bee anie scruple but that the cuntrie it selfe would bee readie and cheerefull in the paiment of these subsidies if wee did prepare some Bills for the setling of the true Religion amongst us to wait upp to his Maiestie upon this saied new bill. The greater difficultie was how wee should bee supplied with monies for the present. The way to come speedilie by them was to consider what had been the rùbbs and obstacles which had hindred us all this while; and that was the saving of that wicked Apostata Preist (John Goodman) and the dangers threatned us by the not dissolving of the new popish armie in Ireland. If the cittie could not helpe us wee weere to consider of some other waies, because the great extremities and pressures the Northren Counties groaned under required our speedie assistance and helpe. Ther was I conceived a Treasurie of the monies collected for the building of Pauls Church, if ther weere it was most fitt wee should borrow some of that, seeing it weere better for those dead stones to lie awhile unimploied, then for soe manie living Christians to bee endangered for want of monie: And that ther might such a Treasurie bee remaining was verie probable for ther had been collection upon collection and corroding upon corroding to raise a masse of monie to that end and purpose. The way alsoe for the suppliing of publike necessities in the times of E. 2, E. 3 and others was by borrowing of wealthie clergie; of which ther weere divers still remaining, ther being one Bishoppwricke (viz. Winchester) which weere worth at this day if it weer out of lease about 30,000£ per annum. Ther are alsoe divers other clergimen who in prebendshipps and other promotions have some 1500£ per annum, some 2000£ of yearelie revenue onlie to maintaine ther luxurie and other vices. For they neither preach nor doe anie thing else for it. These or some other waies weere instantlie to bee thought upon in respect of the great and urgent necessities which threatened us.

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[1] *Cf.* L.J. IV, 112.

After I had spoaken divers seconded mee for the granting two subsidies presentlie and some used my verie reasons: but for the present borrowing of monie ther was noe certaine and sure way sett downe; yet they conceived that the grant of two subsidies would much advance our creditt for borrowing of the monies which wee needed at the present.

Others spake earnestlie against the passing of two subsidies this morning. Some would have had it deferred till thursday, that wee might see what the Lords would doe in the Earle of Straffords case on wednesday next: others for tenn dayes: wishing that wee might first consider how to provide the monie that was presentlie to bee sent away: and yet some of them confessed that they thought noe monie could bee had till some finall course weere taken with the saied Earle of Strafford.

Mr. Pymme moved that in respect of the great necessitie of the publike wee might compell the Londoners to lend monie; and hee called *Legis latae* power, because once in the North monie was soe taken.[2] I wondring to heare Mr. Pymme advize us to such courses, stood upp and saied,[3] That noe man did moore honour and love that worthie member that spake last then my selfe; but I did much marvaile to heare such a motion from him in this Howse, which conduced to the violation of the liberties and pro-
f. 245a] prieties of the subject: to which noe necessitie should draw us. For this is against the priviledge granted by the latest Magna Charta. I called the Magna Charta of H. 3 the latest, because ther weere divers before it. The Magna Charta of William the first is in the redd booke of the Exchecquer. Ther is a Magna Charta alsoe of H. 1 another of King Stephen, another of H. 2 and the Great Charter of Runimede granted by King John; which is moore large and free then that of H. 3 for that was curtailed by the subtle practice of Hubert de Burgo. Besides weere not this against law, yet it will bee against our present accomodations. And therfore I desired that as this was a great counsell soe now wee might learne to keepe counsell, and not to let this motion bee divulged without these walls. For certainlie if the least feare of this should grow that men should bee compelled to lend, all men will conceale ther readie monie and lend nothing to us voluntarilie. This will appeare by the consideration of a former president upon Recorde in H. 3 time. In the Communia Rolls

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[2] Probably it was at this point that Pym said: "That in case of necessitie and in pursuance of the truste that is imposed in us for the safety of the commonwealthe wee may assume a Legislative power to compell suche as bee noted riche men to lend ther moneyes by Act to bee passed here."

Peyton underlines this passage and comments: "The Earle of Strafford pursued by Mr Pim for wordes and speeches not soe destructive of the libertie and properties of the subject, as these here, which if spoken at the Councell Table ect. had bin Treason." Peyton, f. 89.

[3] Pym was followed, according to Peyton, by Sir Hugh Cholmeley, Sir John Hotham, and Sir Simonds D'Ewes, and others. "They all disliked the motion last made as contrary to the fundamentall libertie of the subiect, which wee have ever upheld: and wishe the motion might dye and nott goe beyond those walls.

"Mr Stroude saide, That if the citty of London had in their Chamber 100,000£ which they would refuse to *lend in a great necessitie* it would then bee reason to take it against their wills; and if anyone have a great provision of Corne and will nott in time of scarcitie part with it, it ought in reason to bee taken from him, under reasonable allowance and price, ect.

"Sir Hugh Cholmeley *disliked the motion exceedingly:* and said, that every poore man and every riche man had equall power and right in the Lawes of the Lande which did defend them bothe without respect ect. and established in equall liberties and priviledges.

"Mr. St John Sollicitor would have an Intimation sent to the Cleargie to spurre them to the granting of Subsidies as well as the Laytie: and 'tis nott without President that the Commons have sent to the Convocation to give Subsidies, and have urged them to give as many subsidies as they." Peyton, f. 90.

(it is *communia de a°. 39°. H. 3. ex parte Rememoratoris domini Thesaurarii Rot°.* 9°.) wheere the case was this: H. 3 wanting monie did advize with his counsell (and I thinke it was a great counsell) what course to take to supplie his necessities. It was thought fitt they should compell the citizens of London to lend (or pay a tallage) and to that purpose an oath was framed (for that must helpe to discover the truth) which was to bee administred to each citizen they purposed to borrow of what hee was worth. The Lorde Treasurour and some other Lordes had two or three meetings in London about it, called divers citizens before them who all refused to sweare or to lend; and soe fearing a commotion in the cittie they weere forced to lay aside that project.[4] It appeares alsoe in the first Communia Rolle of King John that ther weere due from the Jewes to him for tallages and other detts and contributions about 27,000£. They ever furnished the Kings of England in ther necessities with monie, but when King John used extremities to force them to lend him monie, they rather threw it into rivers and wells; and hidd it in the earth; then hee should come by it. And soe did the Romanes heere alsoe in cases of dangers and extremitie: whence wee have soe manie antique coines dailie digged and plowed upp in the earth. And sure if once the citizens of London should but feare or suspect they should bee compelled to lend; they will never discover what they cann doe voluntarilie for feare of coaction, but rather convey away ther monies into secrett places wheere it shall never bee found. Rather then such a violent and uniust course therfore as this should bee taken I would sell my whole estate, yea even all but my Bokes (at which the greater parte of the Howse laughed.) Some are of opinion that noe monie will bee lent till the Earle of Strafforde have lost his head. For my parte I doubt not the Justice of the King (who hath been soe zealous for Justice) nor of the Lordes in this case, seeing this man is the blackest delinquent that ever appeared at the barre of Justice in this kingdome. And I am the rather of this opinion because I finde such an f. 246a] exact pararell betweene this man and the late Duke of Biron in France. For as the Duke of Biron was a Protestant in his youth, and an enemie to them afterwards. Soe this great man stood once much for the libertie of the Subject heere, and afterwards endeavoured whollie to subvert it by introducing a tyrannicall and arbitrarie goverment. As Biron could not content himselfe with the ancient titles of his familie soe neither this man. As Biron was soe vainglorious that hee hung upp certaine Spaniards hee had taken for calling him but Baron and not Duke, Soe this man had procured heavie punishments on them that had but neglected him in speeches. As Biron saied hee would destroy all the Protestants of France, Soe this man saied hee would destroy both roote and branch (speaking of the Scotts.) As Biron would have brought in the Spaniards to destroy France, Soe this man would have brought in the Irish to have destroied England. As Biron was told by a wizard that hee should attaine to extraordinarie greatnes, if hee scaped a back-blow, Soe I saied I had heard long since when I had little hope to see this happie day, that such a pœdiction was made of the Earle of Strafford. And lastlie as the Duke of Biron did in the issue ascend a scaffold coverd with black, soe I well hoped the Justice of heaven would bring this man to the same place.

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[4] D'Ewes has erased after the word "project" the lines: "And the King that might doubtles if hee had proceeded by faire meanes have gotten somewhat was enforced to rest contented and to gett nothing."

After this both Sir John Culpepper and Mr. Hollis spake alsoe against Mr. Pymmes motion; and one Mr. Baynton a yong gentleman wished hee might give satisfaction to the Howse for it. But Mr. Capell seemed to iustifie the saied proposition and gave great offence to the Howse by saiing, that if hee knew his owne sonne had monie and would not lend it upon this occasion hee would torture him.

Soe at last wee fell from the debate how wee should raise present monies because wee knew not wheere for the present to have it, to the dispute whether wee should not this morning vote the giving of two subsidies. Divers honest men spake vehementlie against it, to my great admiration and would have had it deferred awhile; which made mee to stand upp againe and say.

That I had not presumed to have spoaken againe at this time though I had a libertie to doe it; if I weere not drawen to it by necessitie. Ther weere soe many worthie members against giving of two subsidies now, as if I weere not thorowlie convinced in my iudgment of the contrarie, I should ioine with them. Two reasons of some waight onlie had been alledged against it. The first that this might perhaps bee a meanes to lessen the value of the fowre subsidies alreadie granted which may bee answeared with that which was advized by another that wee should procure the subsidies to bee raised to the value they weere at in Queene Elizabeths time soe as they might amount unto 40,000£ apiece moore then they had of late done. But I saied as this latter proposition was full of danger, soe the first did not waigh with mee, because the commissioners being intrusted by us I did not doubt but they would deale iustlie and indifferentlie. Secondlie it is objected that it cannot bee materiall though wee deferre the granting of these two subsidies; because they cannot come in by that time wee are to use them. But this I conceived to bee noe suffitient reason, because when wee had granted moore wee might have creditt for moore, and as the case now stood soe as it behoved us to proceede soe farre as wee could, seeing wee could not proceed soe farre as wee ought: and having moved it, if wee should not now vote it, much danger might ensue.

Harl. 164, f. 122a] All that are of opinion that subsidies shall now be granted.

Sir Robert Pye and Mr. Strangwaies for I's.	sides devided	195 I's.
Sir John Wray and Mr. John Moore for Noes.		129 Noes.

Soe it was ordered the 2d question should be put for the granting of Subsedys.

All that are of opinion that two Subsidies shall be granted for the maintenance of the Kings Army, and supply of the Northerne parts.

Then Mr. Speaker resumed the chaire etc. And Mr. Hide reported that wee had taken into consideration etc. and voted 2 Subsidies as above. And then hee spake to shew how our credits would bee advanced by these Two Subsidies.

As the Speaker was putting the question it was that

After long dispute scarce a Noe, upon putting the question.

Mr. Speaker moved for Sir William Brereton to goe into the Countrey upon a verie great occasion, which was granted.

Sir John Hotham moved that wee might take into consideration the raising of moneys on Monday morning next which motion was well allowed but nothing ordered in it.

Post Meridiem.

Some thinges of Mr. Maplethorp. Holebrooke living in Suffolk, worth 80£ per Annum and Fakenham living in the same worth 100£ per annum in the same shire prebend of Wolverhampton. He was a rurall Deane under Bishop Wren and one of his Commissioners. That he preached that the goverment of his neighbour Churches was comitted to his charge, and that he had power to curbe any of his Commissioners.[5] That he had preached severall Popish points; was a great practicer and observer of Bishop Wrenns ceremonies.

Election at Darbie, Mr. Hallowes and Mr. Allestree Mr. Gell and Mr. Fulwood.[6]

Harl. 162, f. 247a] February 22, Monday, 1640.

Mr. Edwards[1] an Alderman of Chester being an agent under Alderman Abel touching the new imposition upon wines was served with an order from the Committee of greivances to have appeared at a day past, which hee neglecting to doe it was ordered upon a petition preferred against him by some citizens of the same cittie to appeare before the saied Committee on wednesday next or else to bee sent for as a delinquent.

It was ordered that the sheriffe of Newcastle having been sent to from this Howse to come and amend his returne, shall bee sent for as a delinquent if hee doe not come to the barre too morrow morning to amend the same returne of the Burgesses ther elected before the beginning of the Parliament.

An act for the alteration of the estate and tenure of some lands in the parish of Fulham in the Countie of Middelsexe held of the Bishop of London as of his mannour of Fulham: read 1ª vice.

Sir Christopher Wray had licence to depart into the cuntrie to visit his mother being verie sicke.

In the parish of Wadsden in the Countie of Buckingham ther was a pretence that ther weere ancientlie a paire of organs. Sir Nathaniel Brent in his metropoliticall visitacion about 1635 forced the parishioners to sett

[5] "Parishioners." Harl. 164, f. 124b. The secretary erred in copying D'Ewes.

[6] D'Ewes was evidently at two committees this afternoon.

[1] "1636. This man (William Edwards, mayor) a stout man, and had not the love of the Commons." Rogers MS. quoted in Ormerod, *History of Cheshire* (ed. 1882, Thos. Helsby), I, 240.

upp a new paire, and then Sir John Lambe and Dr. Rodes[2] made an order to charge the inhabitants and landholders ther to pay 15£ per annum to an organist to bee maintained ther.

Sir Nathaniel Brent being called into the barre confessed, hee had ordered that certaine organs should bee sett upp, but that hee had noe power nor anie else by the civill or canon law to enforce parishioners to contribute to an organist. Soe hee being withdrawen it was disputed what should bee done; some advized to have Dr. Brent ordered to pull downe the organs.

I moved that Sir Nathaniel Brent had not now power to pull downe the organs but hee had gotten monie enough in the visitacion to pay the parish the 50£ they had laied out to sett upp the new organs, which might easilie bee pulled downe if wee tooke order to send to the Bishop of Lincolne to desire it of him. And for the order made by Sir John Lambe and Dr. Rodes to charge the freehold of the subjects of England, I tooke them to have runn into a praemunire therbie.

Then it was ordered that Sir John Lambe and Dr. Rodes should bee sent for as delinquents, to appeare at the barre heere by the Serjeant of the Howse.

Then Mr. Rouse delivered in the Declaration which the Committee concerning St. Gregories had made to bee transmitted to the Lordes: but it was conceived to differ from the ancient forme used in the proceedings against the Lord Chancellor Bacon and Sir John Bennet in King James his time, and soe it was appointed that the same Committee should meete in the Court of Wardes too morrow in the afternoone at two of the clocke to perfect the same declaration.

Then Mr. Rigbie made reporte touching the proceeding at the Committee for Dr. Bastwicke (of which Committee I was) how all the proceedings against him in the high Commission Court had been against the law and the libertie of the subject: the seizing his bookes, imprisonment of his person, barring him from the use of his profession[3] and the like, all which is sett downe at large before upon the hearing of the cause at the committee which I diligentlie attended. Soe the votes of the Committee weere likewise read by him, which was contrived into two propositions, though it had consisted of moore at the Committee the substance of all being: that all the saied proceedings weere against law, and the libertie of the subject with the iudgment therupon given and the execution therof and that Dr. Bastwicke ought to have satisfaction.[4]

Whilest those votes weere writing out for the Speaker, ther being a long silence I stood upp and added, that in my attendance upon the saied committee I had observed that a Commission dormant for searching bookes and papers had been granted to one John Wragg. The pretence was that it was done for the seizing upon of Preists and Jesuites; but intruth it appeared to bee onlie to search for such bookes as they conceived to make against ther tyrannicall proceedings.

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[2] Roane. C.J. II, 90.

[3] "That he soulde 80£ a yeare and left hys practyce worthe 200£ a yeare." Diary of Gawdy. Add. 14828, f. 2. With this day begin the brief pencil notes of Framlingham Gawdy who sat for Thetford in Norfolk.

[4] *Cf.* C.J. II, 90; Peyton, f. 90.

Harl. 164, f. 125a] MR. GLYNNE made reporte from Committee touching presidents against Earl of Strafford (of which I was)[5] for the first, the articles in writing and hee to answeare ther writing past helpe. Now against allowing Counsell. They take notice of this from ther last conference.[6]

The Lorde Ferrars. Rot. Parl. de a°. 4 R. 2, n°. 17°.[7]

Hee was at last forced to answeare at his perill without Counsell.

The Mayor and Comminaltie of Cambridge. 5°. R. 2, n°. 55°.[8]

Agreed that they ought not to have councell allowed him.

5°. R. 2, n°. 43. In the case of one Sir William Cogan,[9] hee was accused of high Treason and demanded councell; but it was denied him and answeared that hee ought not to have counsell in this case.

21°. Jacobi. The Earle of Middlesex was allowed Counsell[10] because hee was not guiltie of high Treason, etc.

1°. Caroli. The Earle of Bristow questioned for high Treason had counsell assigned him, concernd 3 kingdomes, etc. The King etc. and then to pray etc.[11]

Two things, 1, pleading not guiltie is the safest plea etc. 2, Councell must reveale.

Divers spake after how it was against law in cases of Treason. MR. MAYNARD especiallie.[12]

I cited De la Pole.[13] Lord Russell went to desire a Conference.

MR. HOLLIS mooved they had been with the Lord Keeper[14] to putt out clergie men etc.

Voted that Mr. Glynne had delivered, should bee the heads of the Conference.

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[5] Written in cipher.

[6] "A Conference was had with the Lords to showe them, that it was against the practise of former ages, and the course of the Lawes, To give Capitall offendors in highe Treason. 1, To have Copies of his Articles. 2, To answer in writing. 3, To bee allowed Counsell, all which their Lordships had done in the case of my Lord Strafford." Peyton, f. 90.

[7] "4 Ric. 2, Num. 17. Sir Ralph Ferers case." Peyton, f. 91; *Rot. Parl.* III, 90-91.

[8] "5 Ric. 2, Num. 55. Maior and Communalty are of Cambridge, concerning Counsell." Peyton, f. 91; *Rot. Parl.* III, 108-109.

[9] Coggins. Peyton, f. 91; *Rot. Parl.* III, 105-106.

[10] But see L.J. III, 323.

[11] L.J. III, 587. He was granted time, a copy of the king's charge, and counsel.

[12] "When the Treason lyes in matter of Lawe then Counsell may bee allowed butt nott in matter of fact." Peyton, f. 91.

[13] *Rot. Parl.* V, 176-183. "Syr Symmons Dewes yn H. the 6, Delapoole Earle of Suffolk ympeached of treason yn parlyment, was denyed counsell and to geve hys answeare yn wrytinge." Gawdy, ff. 2-3.

[14] "To acquaint him from the house with ther sense of the unfitnesse for Cleargie men to bee in any Temporall Jurisdiction, and that hee would spare them in all Commissions hee should direct ect. And my Lord Keeper made answer that it was a publique and weightie matter, and desired them to moove the house to send a speciall Committee to lett the king know of their desires and receive his pleasure." Peyton, f. 91.

After it was advized that wee should desire a Conference with the Lords to gett clergie men putt out[15] etc.

The Lord Russell returned and the Lords weere readie to conferre etc. Soe the Committee appointed to search presidents, weere appointed to manage Conference of which I etc. soe wee weere called by name etc.

Mr Glynne and Mr Maynard onlie spake.

Soe being returned Divers motions weere made that the grand Committees for Religion, for Greivances and for the Irish affaires and therfore they desired the Howse might bee better attended.

Mr. Treasurour moved that wee might too morrow consider the matter of monie etc. for North.

Mr. Pymme moved the Committee touching the Archbishop of Canterburie might meete at 4 of the clocke this afternoone at the usuall place etc. Ordered.

Ordered that first the report touching the Archbishop of Canterburie should bee made if it weere readie and that afterwards the Howse should bee resolved into a grand committee to debate the matters of the monie to bee

Mr. Justice Foster and Sir Ralf Whitfeild weere sent from the Lordes after twelve iust as the Howse was rising to let us know, that ther Lordships did apprehend the matter of the free conference debated touching the Earle of Strafford this morning was of great waight, that therfore ther Lordships would send to us againe about that Conference by messengers of ther owne.

Post Meridiem.

Proofes against Mr. Maplethorpe parson of Holbrooke etc. Suffolk, refused to give sacrament but at raile, and saied hee had taken an oath hee would not administer. That hee scoffed at the alledging of tendernes of conscience. Troubled divers of his parish in the Ecclesiasticall Courts, and procured ther excommunications: and procured others of his parish to bee questioned in the starre-chamber. Endeavoured by force to breake all ther customes. That hee inhibited Ministers[16] [*illegible*].

Harl. 162, f. 251a] February 23, Tuesday, 1640.

Just as I came[1] into the Howse the parish clarke of St. Martins was complained offe, for hindring a minister that preached ther from praying after his sermon, by beginning a psalme. Some would have had him sent for as a delinquent but Mr Speaker living in that parish saied hee would speake with the Minister ther about it; and take order it should bee so noe moore which gave satisfaction for the present.

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[15] "Mr. Hollis went to my lord Keeper from the house to desyre all cleargyemen to be putt out of commission who desyreth yn respect of the greate alteration that ytt will make yn the kingdome that the house by a commytte woulde address themselves to the king." Gawdy, f. 3.

[16] Peyton (f. 91) evidently attended the same committee but recorded, briefly enough, other evidence:

"At the Committee for Religion.

"Mr. White said, in Dr. [*blank*] Examination, That although the living were nothing worthe yett since hee had taken it upon him, hee must performe the care which is fitt for one that hath the cure of Soules."

[1] Peyton, who evidently arrived earlier, reports (f. 91): "A petition was pressed by the Maior and Communaltie of Winchester against the Deane and Chapter, for that in a Controversie betweene them the matter was broughte by the Churche men to the Councell Table where it was ordered, That the Maior should nott carry the Ensignes of honour of Maioralty when hee came within the close or pale of the Churche, though the honour of having a Mace borne was granted by Charter. ect.

"It was referrd to a Committee that did take consideration of the Counsell table, although there was some doubt how to meddle in it because it is meere matter of honour, and noe freehold, which was entirely vested in the kings good will and pleasure."

Then was a petition read which had been preferd by the Masters and owners of shipps that traded to Newcastle for sea-coales, against the new imposition of 1s 2d on a chaldron ther:[2] and another petition was preferred by MR JOHN MOORE from divers inhabitants in Lancashire against an imposition of 2s laied on everie chaldron of coales[3] ther. And all procured by one Thomas Horth[4] for which hee paied 9000£[5] per annum, or moore.

Soe it was ordered that those petitions should bee referred to the committee for Weymouth, and that the imposition should cease in the meane time both of 1s 2d on a chaldron and 2s on a chaldron. Divers spake to this busines before it was ordered.

A petition was preferred signed by some of the inhabitants of the parish of St. Peters in Norwich that Mr Carter[6] ther minister was inhibited to preach on the tuesdaies in his owne saied parish church: by Dr. Montague now Bishop of Norwich. Divers spake to it, in behalfe of Mr. Carter and against the saied Bishop.

Upon this occasion the Howse passed two excellent votes. 1, That the Bishop of Norwiches suspension of the saied Mr. Carter from preaching as often as hee would in his owne parish church was void and against law.

Secondlie that everie minister legallie instituted and inducted may preach as often, as hee will in his owne parish.

Then a Committee was alsoe appointed of which I was to receive all complaints against the saied Bishop Montague to draw two bills against him, one to reverse a pardon formerlie given him; and another to putt him out of his Bishopp-wricke: The same Committee was to take into consideration the framing of a bill against Dr. Manwaring[7] Bishop of St. Davids in

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[2] "14d on each chaldron, May 1638." Harl. 164, f. 125b.

[3] *Cf. Cal. St. P. Dom. 1640*, 276-277, 655-656.

[4] A salt and coal merchant of Great Yarmouth. *Cal. St. P. Dom. 1640*, 15, 375, 376; *Cal. St. P. Dom. 1640-1641*, 103. See especially Ralph Gardiner, *England's Grievance Discovered* (Newcastle, 1796), 56.

[5] "This summe of 1s on a chaldron came to 9,000£ first raised, by Newcastle men." Harl. 164, f. 125b.

[6] "1638 Mr John Carter was licensed to the place of parish chaplain or head minister, at the donation of the feofees, and in November following, Hugh Roberts was instituted Rector at the King's presentation, he having obtained the broad seal as to a lapsed rectory, but the parishioners on contest, proved their right and outed him. At Carter's being made parish chaplain the parishioners chose Mr Thomas Osborne curate or assistant minister. . . . In 1639 the court granted to Mr John Carter then head minister 10£ per annum during pleasure 'so as he do contynew and perform preaching there on Tewesdays, as formerly he and other his predecessors have heretofore done.'" Blomfield, *Topographical History of Norfolk* (1806), IV, 188.

[7] "Mr. Tomkins sayth that of hys knowledg Bishop Manering hath fo thys iii months run up and downe dysguysed from alehouse to alehouse." Gawdy, f. 3b.

Wales to deprive him alsoe of his Bishoppwricke and to make him incapable of anie Ecclesiasticall promotion; which was alsoe to bee inserted in the bill against Bishop Montague.[8] This Committee was to meete on thursday next at two of the clocke in the afternoone, in the starre-chamber.

This being ordered and a motion or two of little moment passed over, Sir Arthur Ingram stood upp and desired[9] the Howse that as wee had latelie granted two subsidies and appointed this day to consider of some meanes for the raising of speedie monies to send to the Kings armie and the Northren counties. For both his owne letters and the letters sent to other men out of the North by the last post did shew that if some speedie supplie weere not sent, the cuntries weere in great hazard to bee plundered by both armies. Hee propounded severall waies of which hee thought two the most likelie to gett monie either by sending to the cittie, or by furnishing what wee could amongst our selves, some bringing in readie monie and others making use of our credits.[10]

The Speaker was readie to cause the order to bee read and to have the Howse resolved into a grand committee, when Sir John Culpepper stood upp and shewed, that it was expected that the Lordes would send downe to us againe this morning to have a free conference about the Earle of Strafford. Hee feared that they would object the three presidents[11] wee cited yesterday touched onlie the Commons and would putt us to shew f. 252a] that Peeres in Parliament weere denied Counsell. Hee saied that hee conceived therfore, ther might bee verie great use of the president I had vouched yesterday, and soe advized that the former Committee might retire some whither out of the Howse to prepare answeares against anie thing the Lordes should object.

I stood upp and shewed, That I had pitched upon the verie suspition the gentleman that last spake had moved. For the Lords might not onlie in reason make the same objection, but they had alsoe a law to backe it. For in Rotulo Parliamenti de a^{o}. 11mo. R. 2. n^{o}. 7^{o},[12] the Lordes doe ther claime that it is ther right in the iudgment of matters touching anie Peere, not to bee tied to the Rules of the civill law or common law of the lande used in other Courts; but are to discusse and determine them according to the course of Parliaments, which the King allowed. And for the three cases cited yesterday all of them weere doubtles touching the Commons, for though Sir Ralf Ferrers weere then called (viz. by Mr. Glinne that made the report then) the Lorde Ferrars, yet certainlie hee was never soe styled, and Sir William Cogan who was vouched in the thirde recorde cited, might as well have been called the Lord Cogan. I conceived therfore that the case which I had cited then alsoe out of the Parliament Rolls de a°. 28°. H. 6, touching William de La Poole Duke of Suffolke[13] would bee of excellent use, if for noe other reason, yet to induce the Lords, to enforce the Earle of Strafforde to answeare without counsell and that in a shorte time: in respect the deserts of the Duke of Suffolke weere as great to meritt favour as anie mans could bee. For himselfe his grandfather and father had all served in the warrs: wheere hee had been taken prisoner and paied a great ransome. That hee had been of the Kings Counsell manye yeares, and about sixteene yeares a knight of the garter. I had alsoe other presidents readie heere yesterday which now I had not soe ready as then.

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[8] This action is but a continuation of the Commons' efforts begun in 1629. See N. and R., under Montague and Manwaring in the index.

[9] "Begann to sett foorth the miseries of the North." Harl. 164, f. 125b.

[10] "Ordered that a committe shalbe ymployed to my lord mayor and cytysens or to any other to borrowe mony of them uppon the 2 last subsydyes." Gawdy, f. 4. *Cf.* C.J. II, 91.

[11] "Started objections spake for my president." Harl. 164, f. 125b.

[12] *Rot. Parl.* III, 244.

Soe the Howse called upon my selfe and some others of the Committee formerlie appointed to search the saied presidents to retire and conferre together what answeare to give the Lords touching such objections as they should make against us. Some others went presentlie; but I seeing the Speaker to leave the chaire and that the Howse was to be resolved into a grand Committee to treate how to gett monies to send into the Northren parts desired to speake to that busines before I went.

Mr. Hide being come into the Clarkes chaire and the Speaker gone out of his owne chaire I stood upp and saied, That I should bee most readie to doe anie service that the Howse should command mee, but I desired first to speake a little to the present great affaire in agitacion: which did certainlie concerne us all as in matter of Honour and matter of danger. f. 253a] And yet wee might now bee well compared to a man in some great exigent and strait; which looked everie way for deliverance but found none. Soe wee dailie propose severall waies and meanes to provide monies but cann find or pitch upon none. The Romish preists and Jesuites are all of them instruments of evill in this kingdome but none of them ever did soe much mischeife as did this late wicked Apostator (I meant John Goodman that had been condemned and reprived) whose actions have been soe contrarie to his name. For the verie deferring of his iust execution may possiblie hazard the breach of the present treatie of peace and reduce this kingdome to a most lamentable condition; by reason of civill and intestine broiles. For the cittie of London had long since furnished us with monie, had not his unseasonable reprivall hindred them. As I was in speaking worde was brought that a message was come from the Upper Howse. Soe I sate downe desiring not to hinder the same. But divers called mee upp againe and would have mee proceed. Soe I did, but whether it happened just at this clause I cannot certainlie tell. I spake further and saied that whatsoever calamitie should now happen to the kingdome by the failing of due paiment to bee sent to the armies wee should bee guiltie offe, because this Howse had undertaken the paiment of them during the continuance of this treatie: and wee had since assented to the prolongation of the same. Wee weere now therfore reduced to soe great exigents for providing some speedie supplie, as it became us to leape over hedge and ditch for the accomplishment of it rather then faile. That is wee must bee enforced a little to lay by our owne priviledges for this once and if wee could not elsewheere gett monie, to raise it our selves, some by such readie monie as they had and others by ther credit. And I saied for my part if I had fifteene or 16,000£ by mee which some men might count the price of honour, I would rather lend it at this present to preserve the kingdome then to purchase a Dukedome with it. That creditt I had I should bee readie to adventure it as farre as anie man, for the procuring of supplie. Which motion the Howse well approoved and especiallie because I had mentioned the saied fifteene or 16,000£, in respect that it was reported that fowre or five members of our Howse of great estates weere each of them to give much about that somme or proportion to bee made Barons.

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[13] *Rot. Parl.* V, 176-183.

Assoon as I had done speaking, I retired to have gone to the gentlemen that weere gone together to consider of presidents and supposing they had withdrawen into the Committee chamber I went ther, but missing them ther I retired backe into the Howse and was compelled to stay ther awhile till the message from the Lords weere finished. Mr. Hide going out of the clarkes chaire and Mr. Speaker [*blank*]

Soe Mr. Baron Henden and Mr. Justice Foster being admitted the first of them delivered the message which was, That ther Lordships desired a conference touching the Irish armie and those other heads[14] latelie presented by this Howse in a conference by a Committee of both Howses; by a like Committee presentlie in the painted chamber presentlie if it might stande with the conveniencie of this Howse. Soe the saied messengers being withdrawen the [*blank*]

Harl. 164, f. 125b] Lord Keeper[15] concerning the reenforcing of the olde Irish armie and disbanding the new. Lord Keeper. That the Lords would ioine with us for this for disarming of papists and removing those in Queenes Court.

Earle of Holland, Queenes servants that after 18 months treatie it was agreed shee should exercize her religion. First most French Queene now but for 5 papists English, and that now French potent, now and ill irritating of him.

Earl of Dorset, but two Sir John Winter etc. and a woman, for the rest but 10 moore, and better English then hee Lord Chamberlaine to Queene, but tenn or twelve in number. Strangers moore dangerous for Pope and French King. Wheereas Sir John Winter was punishable and had an estate to suffer, wheereas a Frenchman must bee punisht in France and perhaps rewarded.

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[14] The disarming of Recusants and the removing of Papists from the Court. C.J. II, 91.

[15] These very disjointed and interlined notes are the reports of the Lord Keeper, of Holland, Dorset, Bristol, and Hertford in the Conference with the Lords about the Irish Army and the Recusants.

Earl of Bristoll. Parliament etc. Trienniall bill. That the Queene furthered both, first by Letters 2d by entreatie.

Earl of Hartford, that being sent to the Queene before his going to Yorke shee tolde him in discourse A Parliament the onlie way.[16]

Then being returned, the Speaker againe left the chaire and resolved into a Committee. Divers spake. At last it was resolved that a Committee of 12 should this afternoone goe into the cittie and soe Mr. Treasurour, Lord Digbie, and tenn others weere named.

Then Justice Reve and Mr. Attournie from Lords to desire a free conference about Earl of Strafford.

Goe presentlie. I ther. Lord Keeper read as above.[17] Soe returned. **Mr. Glynne** reported etc. Rose.

That wee shall admitt him noe further use of counsell then the necessitie of the cause for his iust defence requireth and wheerein counsell may with the Justice and honour of this Howse bee affoorded. Secondlie ther shall be no delay in the proceedings but all convenient expedition used according to ther owne desires.[18]

Post Meridiem.

f. 126a] The Committee appointed, to consider of oppression of ministers etc. and licencing of bookes.[19]

For the Index.

Yonge saith that he hath noe warrant, but conceaving it fitt and lawfull to be printed, was the cause he printed it.

Miles Fletcher and Robert Yong printed it. Begunn to print about two yeares since. It came offe the presse betweene Easter and Whitsundaie last.

One William Warreiner an Oxford-scholler of Queenes colledge in Oxford, a Master of Arts.

Die Sabbati 1640, 13 Febr. to consider of licensing dangerous bookes and printing

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[16] "A Conference was desired by the Lords concerning the Irishe Army disbanding, Disarming of Papists thoroughout England, and Banishing Papists the Court, especially Mr. Montague, Sir Kenelme Digby, Sir John Winter and Sir Toby Matthews. To the 2 firste they agreed with them: butt to the 3d They endeavouring to make faire answers, sayde How the Queene had beene a principall cause of assembling the present Parliament and how shee used all meanes to perswade the king to passe his Assent to the Trienniall Bill." Peyton, f. 92.

[17] This answer of the Lord Keeper, which D'Ewes placed very much out of order, I have transposed to the paragraph following this.

[18] This is identical, save for one word, with the *Commons Journals* (II, 91). D'Ewes often went up to the clerk's table and it is probable that he copied these notes from the "Clerk's Book." *Cf.* his own diary (Harl. 163, f. 97) where he says: "Usuallie when the Howse rises sometimes tenn or twelve members of the Howse and sometimes moore come about the table and desire to see severall particulars which they doe, others come and call upon the clarke for copies of orders which they are to use and hee is to deliver. Whilest hee is busie in satisfiing the later and moore necessarie demands, those who looked on severall papers come and lay them downe promiscuouslie."

[19] C.J. II, 84. See also below.

"In the committee chamber, Sir Edward Deering beinge in the chaire. A bible brought before us printed by one Fletcher, and Yonge where in the index is said *Eucharista una remanet substantim panis post consecrationem, sed est verus Christi, corpus et sanguis.*

"Fletcher confesseth he printed parts of this bible beginning at Jeremie, and so to the end of the old Testament; but Mr. Robert Yonge printed the rest, with the index, and that one Warren, or Warraner was the collector or framer of this Index, and that it came forth of the presse, about hollietyde was twelvemonth, and that the minister afore named was of Queenes in Oxford. Robert Yonge confesseth that he printed this them, and forbidding orthodox bookes to bee printed. This was at first a subcommittee out of a grand-committee for religion and Febr. 13 made a Committee.

Harl. 162, f. 256a] February 24, Wednesday, 1640.

An act was in reading when I came into the Howse for the new conveiance and setling of the mannour of Flower in the Countie of Northampton and the selling of some other lands[1] which now stood intailed to the issue of Mr. James Enyon, hee offering in the act to settle other lands for those which should be solde. This was the 2d reading:[2] and it was putt to the question whether it should bee committed. The I's went out and weere but 119. The Noes staied within and weere 138. The affirmatives seemed the greater number at first; soe I beleeve divers that saied I; staied in the Howse rather then they would goe out and loose ther places.

Soe then the question was putt touching the ingrossing, and ther was not one affirmative but all noes: Soe the Act was cast out of the Howse.

It was moved that Sir Miles Fleetwood a member of this Howse was served with a subpaena out of the Chancerie: which was accounted a breach of priviledge: and soe it was ordered that the partie who served him with the subpaena should bee sent for to answeare it.

Mr. Pymme made a long reporte touching the charge of High Treason brought in against the Archbishop of Canterburie the greatest parte of it was the same conteined in the Articles: the substance of the preface or introduction to the same which hee made was a comparing of the saied Archbishop with the Earle of Strafford how they both endeavoured to subvert religion and the fundamentall lawes of the realme. That both weere ambitious, proud and insolent: with other matters expressing the hainousnes of both ther crimes.[3]

Then hee delivered upp the saied Articles written in paper to bee read by

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bible, and the index also and that Mr. William Warraner made the index, and that he printed it by virtue of Mr. Nortius Graate and that he recides with Yonge.

"A peticion from Phillip Chetwin and Mary his wife, against Samuell Baker who is one of the licencers, and the booke which Mr Jones writt upon the commentaries upon the Hebrewes and Philemon, and Baker soe abused the copy of it is worth litle, and cost them 400£. Their is to goe forth a warrant for witnesses.

"It is ordered that the printer which excepted against Mr Bridges sermon shall come to shew cause.

"The stationers and printers peticioned to be considered of, and they are to shew that order of 88 which they did.

"This is adiourned till Friday." Moore's Diary, Harl. 476, f. 265. I have used Moore's own enumeration of folios. For a discussion of this diary, see Preface, xii.

[1] "To pay his detts." Harl. 164, f. 126a.

[2] "Many were for the casting forth of this bill." Moore, f. 266.

[3] "Mr. Pim report concerning the archbishops cause. He saith their is noe cause can parallel this cause but the earle of Straffords for the archbishop was to overthrow the[m] both religion, and the lawes.

"Strafford to overthrow religion lawes properties and what not, and all by force.

"In the archbishop pride, superstition, hatred and a hater of god lawes.

"He hath not onely corrupted men but preaching and as much as in him lies all the

the clarke of the Howse. In the title of the saied Articles he was onlie called William Archbishop of Canterburie: soe it was doubted whether his sirname of Laud should not be added to them.

I stood upp and shewed that it was verie materiall to add his sirname of Laud into the saied title: for in the impeachment of Thomas Arundel Archbishopp of Canterburie of high Treason a°. 21°. R. 2, his sirname is added upon the Parliament Rolle ther.[4]

Soe his sirname of Laud was added to the same title[5] and then weere the same title and all the articles read by the Clarke being 14 in number and voted by the Howse. The Speaker first putting the question touching the title of the saied Articles, and then at the end of everie Article the question was thus putt by the Speaker viz. As many as are of opinion that this shall bee the first article in maintenance of the charge against William Laud[6] Archbishop of Canterburie let them say I. All the articles weere voted without anie one No. The substance of them was, That the saied Archbishop of Canterburie had advized his Majestie to subvert the Lawes of the Realme and libertie of the subject, telling him he might doe it by the law of God; and soe to bring in an arbitrarie and unlimited power not onlie in the King but in himselfe and other Bishops and preaching and printing the same by himselfe and his instruments. Hee corrupted Justice wheere hee was a Judge or referree, and tooke bribes. Hee endeavoured to subvert the course of Justice in other courts, and to destroy the Common law, contrived wicked new canons at the last synod,[7] and an unlawful oath: by both which hee endeavoured to acquire to himselfe a papall and vast power. Introduced Idolatrie and Superstition into severall churches. Printing and publishing many popish and false Tenents contrarie to the established Doctrine of the Church of England. Hee enforced ministers and others to observe his innovations and papall devices against law, and cruellie persecuted those who opposed them. Countenanced and preferred corrupt and scandalous Divines had such for his household chaplaines and his chaplaines at large. Licenced corrupt pamphlets and bookes: hindred Orthodox bookes from being printed. Did by himselfe his suffragans and
f. 257a] officers silence, suspend and deprive many orthodox godlie and

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kingdome. They have beene not onely destructive to them selves, but to all the kingdome.

"He went about to set by the lawes of men before the lawes of God, and to subvert all the lawes both of God and men." Moore, f. 266.

See Thomas May's account of Pym's report (misdated as Feb. 23), *History of the Parliament of England* (1812), 56.

[4] *Rot. Parl.* III, 351.

[5] For the full title see *Cal. St. P. Dom. 1640-1641*, 479.

[6] "As many as are of opinion that this shall bee the first article in maintenance of the Commons charge against William Laud. . . . In the other questions hee lefft out the word Commons." Harl. 164, f. 126a.

[7] For a good statement regarding the new canons see Makower, *Const. Hist. of the Church of England* (1895), sec. vii, n. 31, 32, 33.

zealous ministers. That hee held continuall correspondencie with Romish preists and Jesuites: and intelligence with the Pope himselfe; and endeavoured to reconcile us with the Church of Rome. Hee endeavoured to make a division betweene us and other reformed Churches, perswading his Maiestie to abridge the Dutch and French Churches in London of ther former liberties. And that he endeavoured to subvert the true Religion in Scotland, and perswaded his Majestie to raise a warre against that kingdome.[8]

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[8] "1, His opposition to goverment.

"2, His usurping of unlimited and absolute power.

"3, Opposicion to religion.

"4, His opposicion to parliament and parliament way.

"1, He endeavored to subvert the fundamentall lawes of this kingdom by giving his advice to the King both private, at the councell table, high commission and other places; he said that he would have them governed by the civill law, and said that he would make the proudest subject in this kingdom to give way to him, and they telling him it was not law he replied he would make it law, and that the King might at his owne pleasure take money without parliament, and was warranted by Gods law.

"2, His countenancing of books for maintaining of his unlimited and absolute power, as Bayls sermons, and equivocatings wherein the power of parliament is denied, and the bishops power set up.

"3, That he went about to corrupt the judges by his threats and other meanes to make them to give false iudgements as will appear both by his handwriting and by persons.

"4, Hath sold justice both in the high commission as archbishop referrie and other wayes. Bribery and periurie both for Paules and otherwise, and that he would not onely corrupt judges but sold judiciarie places to them to corrupt them.

"5, Incroachment of jurisdiction, as for making of canons, and that they are not onely unlawfull but preiudiciall to the subiect. That he inlardged his jurisdiction by making these cannons which he surreptitiously hath gotten.

"Unlawfull jurisdiction that he would assume to himselfe by an oath, and that he hath exercised his authority very cruelly, both as a councellor as a commissioner, and as judge, and this authority is derived from his owne orders, and not from the Kinge.

"6, He assumed a papall power over his Majesties subjects and doth derive his power from the King.

"7, That both by doctrine, and otherwise he went about to subvert religion traterously, and to sett up popish superstition and doctrine.

"8, By undue meanes and practises he hath gotten the nominating of ministers into clergie livings, and hath preferred none but scandalous men throughout and that he hath preferred corrupt chaplins to his Majestie.

"9, His owne ministers as Heywood Laffild and others who were notoriously diseffected to religion, and hath given the licencing of books to them.

"10, That he endeavored to reconcile us to the Church of Rome, and for that end hath employed a Jesuit, and a priest who are under pension and that he hath wrought with the popes agent to reconcile, and in what points.

"11, To suppresse preaching, and hath suspended and deprived, many good and honest ministers, and hath written to severall bishops to suppresse them.

"12, And hath gone about to suppresse the French religion here with us being the same that we are of, as also the duch Church, and to set division betwixt us and them.

"13, That he went about to make division betwixt the subjects and the King and hath gone about to bring in innovacions as by the remonstrance may appeare, and induced the King to this war and many men uppon their deathes bed to give towards the maintaining of these warses, and also hath caused the cleargy to give him freely towards the maintaining of this warr and brought many superstitious innovacions into

After all the articles had been particularlie read and each voted, ther was some alteration and addition made in the 4th[9] and fifth articles. Soe the new question was putt againe to each of them thus, viz. As manie as are of opinion that this article shall bee the 4th article in maintenance of the same charge let them say I. And ther was a generall affirmative. But when the negative was putt, ther was not anie No. The same question was putt and voted for the 5th article; after it had been read againe by the clarke as the 4th had been before it.

Then was the conclusion read at the end of the 14 article and wee voted that that should bee the conclusion, reservation and protestation of the saied articles.[10]

After all which the Speaker holding all the saied articles with the title and conclusion in his hande put this question for the engrossing of all in parchment viz. As many as are of opinion that the Title, Articles, Averrment, Protestation and conclusion now read shall bee engrossed let them say I, which was answeared without a negative voice.

Just before this last vote past it was moved by Mr. Cage that in respect the Archbishop was charged in these articles to have contrived the new Canons, hee feared least this would excuse all others that had a hand in the passing of them.

But I stood upp and shewed that though I did verilie beleeve that some other had a hand in the contriving of the new Canons besides the Archbishop yet our charging of him to have done it, did neither excuse anie other who had a hande in the saied contriving or passing of them. For as by our impeaching him wee did not accuse, soe neither did wee excuse anie other.

Then it was agreed that the saied Articles with the title and conclusion should bee engrossed against too morrow morning and then sent upp to the Lords, by Mr. Pymme who was to manage the conference: and Mr. Hamden and Mr. Mainard weere appointed to assist him.

Then wee fell into debate what day wee should appoint to determine what penaltie the Bishops and others had incurred who had made the new Canons and the oath. And at last it was ordered that wee should take the same into consideration on monday next.

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the Church of Scotland, and that he procured the King to break of the pacification, and to bring in a bloody warr and to preserve him from being sentenced for these.

"14, That from prime of the King till now he hath still endeavored to overthrow parliament and for that at Oxford he gave forth many such words against it, and continued ever since." Moore, ff. 266-267.

It will be observed in how many details the articles as reported by Moore differ from those to be found in Rushworth, IV, 196-198. But Moore follows this (ff. 268-272) with the full text of the Articles, varying only by an occasional word from Rushworth's copy.

[9] "The 4th article was amended because it reflected on the King." Harl. 164, f. 126a.

[10] These are given in Rushworth, IV, 198-199.

Mr. Capel shewed that hee and others had been in the cittie to procure monies and that they did hope by the end of this weeke to give a good account therof. Hee saied alsoe that a freind of his had 20,000£ readie to lend but that hee expected personall securitie.

Mr. Hollis moved that one good meanes to raise monies might bee the questioning of the customers.

Sir John Strangwaies moved some course might presentlie bee taken to ridd the Scottish armie out of the kingdome; and that wee might give them noe longer pay.[11] And soe after some other motions both waies it was at last agreed that wee should speedilie fall upon the questioning.

Harl. 164, f. 126b] Mr. Crew moved that the Customers might bee questioned etc.

Sir Thomas Row spake long touching the 8 article, that slept etc. that monie would not bee. Others spake and all for a Committee to question the Customers except a verie few, although it would not raise present monies, yet it would make men willing to lend. A Committee named.[12]

Soe it was ordered that the Committee should examine from 1°. Caroli what received what paied; by them, etc. To meete too morrow in the afternoone at 2 of the clocke.

Divers lawyers[13] appointed to meete to draw such an order or declaration of the Howse as might to satisfie anie that shall lend monie that they should bee paied whatsoever they lend out of the subsidie bill alreadie passed. It was ordered that they or anie three of them might doe it.

Post Meridiem.

The Suffolke ministers petition the last part of it read.

Oath of Canonicall obedience by which they force Ministers to doe anie thing.

Oath *de parendo iure et stando mandatis Ecclesiae,* administred to Ministers and others being absolved from excommunication.

Oath *ex officio.* Mr. Margerie of Walsham excommunicated for not taking oath *ex officio.*

Ther excommunications for frivolous and uniust matters and ministers enforced to execute these by pronouncing them in Churches. Excommunicate men also for not appearing.

Wrenn by his Articles hee enforced his churchwardens to present divers impossible articles; as to tell if ther ministers preach according to the opinions of the ancient Fathers; and what catechize men use in private.

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[11] "And wished they might bee sent home and noe longer paied seeing ther liberties and religion confirmed." Harl. 164, f. 126a.

"Sir John Strangewayes. That the merchant strangers have convoyed all their monies beyonde the seas, and all know how scarse monie is to be had, and the Scots having their lawes, religion and liberty granted I could wish that some speedy course may be taken for the sending them backe into Scotland.

"The 16 of March their is due to the Scots 95000£ that their is diverse regiments in Scotland. That there are divers Commanders come forth of Germany, and other parts, and that they must have two monethes pay at the least at their goeing away by the law of nations." Moore, f. 274.

"Syr Jhon Strangwayes, that if the Scotts tarry after the xvi of marche he woulde have them beare there owne chardges out of the 300000£." Gawdy, f. 5b.

[12] "Then upon debate a committee was chosen which were to consider of the abuses of customers and to consider of all Imposicions in the custome house, and what monies they owe to the Kinge, and yet hath made the kinge to pay use to them for monies and likewise to search out what monies they pay to the Kinge, and what they doe yearely gaine. Mr. Treasurer Mr. Hollis and some others are the committee." Moore, f. 274. See also, C.J. II, 92.

[13] Whistler, Perd, Maynard, Prideaux, Kinge. C.J. II, 92.

Then manie abuses sett foorth in Dr. Peirces court.

Harl. 162, f. 259a] February 25, Thursday, 1640.

An Act[1] for the assurance of the rectorie Impropriate of the Church of Wolstanton in the Countie of Stafford upon Ralf Sneyd Esquire and his heires etc.

A petition preferred against Dr. Sterne Master of Jesus Colledge signed by Richard Gatford batchelour of divinitie with a long Remonstrance compleining of the wicked courses of the saied Dr. Sterne to the utter ruine of the saied colledge. The saied Mr. Gatford was formerlie a fellow of the same colledge. The petition onlie being read it was referred to the committee appointed for Immanuel colledge,[2] of which Committee I was.

An act against pluralities of Spirituall promotions,[3] read 1ª vice.

An act to abolish all trialls by battaile and ioining issue by battaile in writts of right,[4] read 2 vice.

An act for the conversion of tillage into pasture,[5] read 2ᵈᵃ vice. Soe the bill was committed and a Committee named, to meete in the starre-chamber[6] on tuesday next at two of the clocke.

An act concerning apparell[7] read, 1ª vice.

Mr Rigbie made report[8] of the proceedings against Dr. Bastwicke in the Starre-chamber at all which I was present, and the large relation therof is before sett downe.[9] After which the same votes weere passed heere as at the committee but onlie they weere reduced into two heads. The first that the suite in the Starre-chamber against the saied Dr. Bastwicke the proceedings therin, the sentence and execution therof weere all against law and against the libertie of the Subject and ought to bee reversed: and that Dr. Bastwicke ought to have reparation for his damages, and losses. The second was that the transferring of the saied Dr. Bastwicke from Lanceton castle in Cornwall to the Isle of Sillie and his imprisonment ther weere alsoe against law and the libertie of the subject and that hee ought to bee discharged of the same imprisonment: for this second tranferring was done by an act of counsell; and not done in the Starre-chamber.

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[1] C.J. (II, 92) puts the Rashley matter first on this day. Moore (f. 275), who puts it after the Snead matter, says: "Their is a letter to be sent for the staying of all suits betwixt Mr Rashley, a member of this house, whose tenant is sued and the land beinge Mr Rashleys the suit is staied."

Peyton (f. 93) says: "A member of the house desired the Priviledge of the house, for that a Tenant of his being sued hee was bound to maintaine in the suite. ect.

"Mr Cage saide, If it were a matter of Freehold then it was fitt hee should have the priviledge; butt if it were only a trespasse it nott fitt."

[2] So Moore, but C.J. (II, 92) says the "Committee for the Universities where Sir Robert Harley has the chair."

[3] "And for the more vertuous preaching of Gods word, once read, and that every one shall resigne before February next." Moore, f. 275. "Any man that now hath two lyvings must lay downe one of them before the 1 of february." Gawdy, f. 5b.

[4] "And to have them tried by a writt of grand assize." Moore, f. 275.

[5] "And that the suits must be within the county where the fact was done, and within 3 yeares." *Ibid.*

[6] So Moore, but C.J. says in the Exchequer Court.

[7] "An act concerning apparrell, and against gold lace, silver lace, and imbrodery, and that none but the royall progeny shall were cloth of tissue, or mixed with gold, or silver lace or gold, or pearle about or on their coatches. Nor to have them gilded save onely their armes. Upon forfitt of xx£ after the first of March next save those that are to receive titles [?] or masters.

"And if any woman wear contrary to this act she is to loose halfe of the apparrell and the husband to forfitt nothinge and continue till next sessions of parliament." Moore, f. 275.

[8] At some point before Rigby's report, "Mr Speaker advised the house to take care of the Statute of Continuance which would aske a long time to draw up." Peyton, f. 93.

Then divers spake to this matter shewing the wickednes and crueltie of the Archbishop espetiallie. I moved that I had attended this committee with some assiduitie, and did conceive ther was moore crueltie conteined in the execution of the sentences aforesaied then was to bee found amongst Turkes and heathens. For after the iudgment given in the Starre-chamber and the execution of it with such extremitie as it endangered Dr. Bastwicks life: yet the fire of malice was not extinguished with bloud in that little active wheele (I meant the Archbishop of Canterburie) that sett all the rest on worke by his active motion. For I did assure my selfe most of the Lordes that ioined in those two sentences weere rather drawen to them, then ledd by the others violences; soe as I had not much to say against them. After the saied execution Dr. Bastwicke was sent away to Lanceton castle in Cornwall wheere hee was to be close prisoner before his soares (viz. wheere his eares had been cutt offe) weere whole or hee fitt to travaile. In which travaile though his wife weere appointed and directed by the surgeon to attend and dresse him, could scarce gett anie accesse to him. Being come to Lanceton castle, hee was putt in a prison soe ruinous, as hee was dailie in danger of his life. But those senceles stones though ill cimented had moore pittie then his violent enemie. Who not contented to have close prisoner heere within the lande, would send him beyond the seas into the Island of Sillie which was done by an order of Councell (in the yeare 1637)[10] and then in the beginning of October, when the seas weere rough and travailing dangerous hee was shipt away in the companie of such popish or profane persons as dailie provoked him by evill words. Being come ther hee was not onlie made a close prisoner; but his verie wife a thing noe age nor storie cann patterne, forbidden to come upon the Isle to enquire of his health or to send letters to him or receive them from him. The Persians that are Mahometans barre not a mans wife and children from him in the greatest offences. Saporus one of ther Kings having deposed his elder brother in which case hee ought to have been most cautelous yet would not debarre his wife and children from him. Soe as wee see this little nimble wheele had hee not been restrained might in time have overturned us all.

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[9] "Then Mr. Rigby began with Doctor Bastwickes reporte concerninge some books by him written concerninge the oath *ex officio*, and others and that he was brought to the barr where he tendered his answeare but refused because it was not under councell hande.

"And then the court proceeded to sentence. First fined him in 5000£, perpetuall imprisonment and that he should be close prisoner during his life and that he should be degraded, and sett upon the pillory, and that this sentence was very fully executed and sent to the castle of Lanceston and that he had like to have beene killed in the fall of the castle.

"Then in August a new order from the councell table first to be sent to Silly to be close prisoner, and neither incke pen or paper and noe books, save the bible, and common book of prayer, nor letters and if his wife did sett foote on the iland, then she to be prisoner and that besides his corporall punishment he was damnified 5000£.

"The lords which sentenced him were [Bishop of] London, Manchester, . . . and the archbishop whoe made the speech you all know and he withdrew his vote, London gave nott [?] vote, but said he would pray for them." Moore, ff. 275-276.

A summary of the report is given in C.J. II, 92-93. This has the same list of names as in Moore.

Divers spake after mee:[11] and as wee weere in the debate, a message from f. 260a] the Lordes brake offe the same. The messengers weere Mr. Justice Reve and Mr. Justice Foster: who enformed us in the accustomed manner, that ther Lordships desired a conference by a Committee of both Howses touching the Answeare of the Earle of Strafford presentlie in the painted chamber if it might stand with the conveniencie of this Howse.

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[10] *Cf.* C.J. II, 92-93, for those present at the Council, Aug. 27, 1637.

[11] It is possible to get a better idea of this debate from the notes of Moore and Peyton. Moore is difficult to follow because he fails to give the names of the speakers.

"In the time of Ed. 3 you shall finde that it was not all the lords that were present, but the cheife informers which are to be punished for the sentence, and you all know that it was the archbishopp, Mr. Treasurer.

"12 Ed. 3 a law for rectifieing of such as are about the Kinge.

"3 H. 7.

"Canterbury gave thankes to the lords for their sentence, and as a trumpetter and some others beinge taken prisoners, the trumpetter alleadged that he never drew his sword and therefore ought to be dischardged, but it was replied, that though he drew not his sworde, yet he animated them to fight and therefore all to be dischardged but he; and for the archbishop I conceive was the cheife instrument and though the bishops may put onely for mittigation, yet I have always observed that the archbishop, alwayes advanced the sentence in starrchamber, for I have heard him say, that we have an army to breake their backs, and I say, we have sufficient to breake his neck and I desyre that he may onely pay the damadge.

"There was a law that whosoever did committ anything when he was drunke, should receive no punishment, but then their was a law that whosoever was drunke, and committed any fact worthy of punishment, should be doubly punished and soe if these lords would be soe much elicited [?] as to complie with the bishops, and therefore all to be punished."

"I must differ from all that have spoken, first I would have the bishops to pay parte, because they pretended it to be scismaticall, secondly upon those that gave their vote before the judges, that would presume to give their votes before the judges had delivered their opinions, then I would have the judges for deliveringe their opinions contrary to lawe, and the liberty of the subiects, but for the other lords I conceave they did it forth of uprightnes of hart, therefore I would have these lords freed, except

The messengers being withdrawen it was resolved by the Howse that wee should give the Lordes a meeting presentlie: but before our answeare was delivered; It was ordered that the debate touching Dr. Bastwicks busines should bee resumed after our returne from the Conference.

The messengers being againe called in the Speaker tolde them, that wee would give ther Lordships an answeare presentlie as was desired.

They being againe withdrawen and gone Mr. Sollicitor and others weere appointed Reporters and soe they went to the conference, and soon after againe returned.

f. 259b] Before Mr. Sollicitor made his reporte some dispute followed touching what reparations Dr. Bastwicke should have and soe wee voted that all those who had given sentence against him should make him satisfaction.

Then Mr. Sollicitor made reporte that the Lorde Keeper did onlie relate to them that ther Lordships had themselves heard the Earle of Straffords answeares; and had now sent them downe to us not only in the paper booke but engrossed alsoe: and soe they weere delivered unto the clarke.[12]

After a motion or two before the Clarke beganne to read I stood upp and moved, That wee weere to remember how in a former conference with ther Lordships wee had maintained not onlie by presidents but alsoe by reasons that the saied Earle of Strafford ought to answeare by himselfe and not to have counsell allowed him: now if wee shall soe farre allow those answeares of his penned, drawen and putt in by his counsell as to read them over in this Howse, wee shall recede therbie from our owne rights. I confessed wee weere in a great strait for if wee should refuse to intermeddle with these answeares which the Lords have sent to us, wee shall retard this great mans triall which it soe much concernes us to hasten: and if wee admitt the discussing of the same, wee open a gapp for all other offenders to bee proceeded against with the same delay. I durst not presume to advize, but I did humblie submitt it to the Howse.

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those that subscribed to the warrants for transmitting of Bastwicke and the others." Moore, ff. 276-277.

"Mr. Whistler saide Bishops are nott Judges butt Assistants.

"Sir John Hotham. That although it bee saide that *Actio moritur in persona,* yett hee desired the house would make it a rule, that if any man had beene a great delinquent the heire should bee responsall ect.

"Mr. Maynard saide, Noe man ought to bee made Criminall for any opinion unlesse it were Hereticall: and to maintaine that Bishops are nott *Jure divino* is nott soe." Peyton, f. 93.

[12] "Then Mr Pim, Mr Sollicitor, Mr Hamden, Mr Mainard, Mr Palmer and Mr Raineholds were reporters, and then we goinge to the painted chamber the lord Keeper said that yesterday was the day signed to the Earle of Strafford to put in his answeare, which accordingly he did, and this roole here delivered is the same, delivered by the Earle of Strafford, and with all here is a copy which I would have them to peruse, and let me tell you more, that we have denied to let the Earle of Strafford to put in any other, or verball answears, and that this is his positive answear by which he must be tried." Moore, f. 277.

After I had spoaken MR. SAINT JOHN the Kings Sollicitor answeared nothing to my obiection;[13] but saied onlie hee hoped that wee should within two or three dayes bring him to a triall this way. Soe the Howse in hope of that begann to read the Answeares but finding they would take upp a long time, deferred the reading of them till the afternoone:[14] and appointed that the Howse should meete againe in the afternoone.[15]

f. 260a] Post Meridiem.

About one of the clocke in the afternoone the Howse mett againe and the Speaker being sett the clarke read our Articles against the Earle of Strafford, viz. the 28 new ones. The Clarkes assistance read the answeares out of the engrost parchment.[16]

First hee acknowledgeth none of the saied Articles or charges laied against him neither of the saied first seven nor of those which follow. For the saied first seven articles are generall and not to bee answeared unto: yet to satisfie ther Lordships hee would answeare them. Hee acknowledgeth that through his Majesties favour enioied all those offices in the articles mentioned. That hee studied the safetie of the places hee was sett over and the advancing his Majesties revenue.[17] That hee caused in Ireland many good lawes to bee made; wheere ther Parliaments before his time had been rare and infrequent. Nor had hee other commands in Ireland then his predecessors before him. That the customes in Ireland differ from the mannour of customes in England, nor was his farming of them anie hinderance to the trade of that kingdome. But hee advanced the honour of that kingdome; and restored the revenue of the Churches ther in severall places which hee found usurped. Hee had alsoe much restored the crowne and safetie of the kingdome ther. And though hee might bee ignorant of the lawes, yet hee endeavoured according to his abilitie to bee enformed of the lawes.

To the first of the last 28 Articles hee saied though the time weere somewhat mistaken yet hee would answear clearelie: And denied that hee was noe devicer or procurer of the new Commission or instructions which weere sent over into Ireland to him: Nor did abuse the same to iniustice after hee had received them, or to subvert the lawes of that Realme of Ireland.

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[13] "But onlie desired the answeares might bee read." Harl. 164, f. 126b.

[14] "Soe the Clarke beganne to read his answeares it being a little past eleven: but the Howse considered that they could not make an end till betweene 5 and 6 at night and soe rose appointing to meete againe at one of the clocke and soe the Speaker having asked the question it was soe resolved and the Howse rose." Harl. 164, f. 126b.

[15] "Then it was ordered that Mr Speaker should at one oclocke come to the house againe and that the Earle of Straffords articles and his answeare should be read." Moore, f. 277.

[16] See Verney (15-23) for Strafford's replies; also Rushworth, VIII, 22-32.

[17] "From 57000£ to 175000£ per annum he had raised the revenewes.

"That he had but 1500£ for secret service from his Majestie. 7000£ per annum this lessened in the army by his meanes." Moore, f. 277.

The 2d Article hee utterlie denieth and saied hee did not say that the Kings little finger should bee heavier then the loines of the law: but that the little finger of the law was heavier then the Kings loines: and expressed at large upon what occasion hee spake those words.

The words spoaken in the 3d Article, That Ireland was a conquered nation hee confessed, but saied hee meant nothing ill by it, but spake it onlie to stirr upp the Irish to the greater loialtie, seeing that [they] yet enioied ther estates having been conquered.

To the 4th Article touching his putting the Earle of Corke out of possession of parte of his estate and imprisoning him. Hee saied that perhaps that estate belonged to the Church; and if hee disobeied anie order of the Castle chamber (that is the starre-chamber) in Ireland; hee might well therfore bee imprisoned.

To the 5th Article touching his putting the Lord Mount Norreis a peere of that realme out of possession of his offices, and exercizing a power above f. 261a] law to the subversion of the fundamentall lawes of that realme. That hee had alsoe exercized martiall law, against the saied lawes of that realme in the time of peace. Hee denied that hee intended to subvert the saied fundamentall lawes, but iustified his exercizing martiall law, being ancientlie accustomed in that kingdome. For his condemning the Lord MountNorris without law, hee saied it was done by a Councell of warre; without intent to take his life from him: and that hee gott his pardon himselfe. For the other person not named that should bee executed by Martiall law, it was soe incertain and generall as hee was not bound to answeare to it.

To the 6th and 7th articles touching his putting the nobilitie and others out of ther possessions, hee avowed that to have been done by the Judges and ministers of Justice in Ireland, and by inquisicions taken and other legall proceedings.

To the 8 Article touching his imprisonment of the Lord Viscount Ely Lord Chancellor of Ireland and divers others onlie for disobeiing his owne uniust and unlawfull decrees and orders: hee answeared that ther weere full proceedings upon the same, and soe sett foorth at large all of them, and that what hee had done was either done with the consent of the rest of the privie Councell in Ireland or by the ordinarie proceedings of other Courts. Hee excused alsoe his putting the Earle of Kildare out of possession and imprisoning him, by pretence of an award or order made by King James, and of an award afterwards made by himselfe with the consent of parties.

To the 9 Article touching warrants [*blank*]

To the 10th Article touching his farming the customes of Ireland and raising some customes to the 5th, 4th, and 3d part of the true value of the commoditie: and soe impoverishing the realme. Hee answeareth that hee was induced therunto by the Earle of Portland when hee was Lord Treasurour of England. That the saied customes had been farmed before by others: and denied that hee had raised anie customes otherwise then had been formerlie used: and that hee had no intent to impoverish the saied realme therbie: and soe sett downe at large in what manner and measure hee raised the saied customes.

To the 11th that hee restrained the exportation of pipe staves and other native commodities of that kingdome without licence for his owne lucre and gaine; by which the rates of the saied commodities weere doubled and trebled. Hee answeared that hee did not restraine the saied commodities for lucre sake; nor made anie profit therbie, but that his Majestie received 1500£ per annum by vertue of that restraint.

To the 12 that hee had ingrossed the whole trade of tabacco to himselfe and made a monopolie of it. Hee saied hee did it for his Majesties profitt; and in imitation of a proclamation sett out in England that all tabacco must bee landed at London; and soe shewed all his proceedings therin at large, averring that trade was noe way hindred by it, but that tabacco was still solde at reasonable rates. And wheereas hee was charged to have raised many Monopolies hee denied the same, affirming hee had diminished the number of them, nor had anie revenue or profit out of anie of them.

To the 13th article touching his setting upp the manufacture of linnen cloath [*blank*]

f. 262a] To the 14th Article by which hee was charged to have sett out a proclamation and to have imposed a new oath upon marriners and shipp-masters. Hee referred himselfe to the same proclamation and oath, and iustified the same.

To the 15th that hee had traiterouslie endeavoured to subdue the Subjects of Ireland by force of armes in 16 [*blank*] by laying illegall taxes on the countie of Baltimore and other counties and then forcing the same mulcts to bee paied by force of souldiers. Hee denied that hee had done it traiterouslie; but confessed ther was a great summe imposed at that time for his Majesties use and soe sett foorth at large in what manner and by whose consent and advice the same was done: hee having himselfe done nothing without the advice of the counsell ther.

To the 16th Article that hee obteined power from his Majestie that none should complaine to his Majestie of anie inustice in Ireland till hee had first complained to him. To which end hee sent foorth a proclamation and rigorouslie executed it. Hee answeared that such a restraint came from his Majestie which was thought that it would proove behovefull to the kingdome of Ireland: and soe hee iustified the proceedings therupon by a long discourse, what necessitie ther was of it; and what great inconveniences would ensue to that kingdome if this restraint weere taken away.

To the 17 article that hee did say in Ireland that his Majestie did soe well like the armie ther that hee would follow the same course in his other two kingdomes: hee denied that hee had spoaken anie such words to any such intent and purpose as in the saied article is sett foorth.

To the 18th that hee had drawen a dependancie of papists in England and Ireland upon himselfe, and to that end raised an armie of 8,000 papists in Ireland. Hee shewed that hee had done nothing in favour of the papists in England or Ireland but as hee had ioined with others, in commission with him: or that others had done before him or did without him.

To the 19th Article that hee had in May a° 15° of his Majesties raigne invented a new and pernitious oath which hee forced divers of the Scottish nation in Ireland to take against ther wills, and punished one Mr. Stuard and others by heavie fines for refusing it. Hee answeared that this was done when the Scottish nation was upp in armes, and was allowed by the counsell of Ireland: and that much quiet and freedome from iealousies ensued therupon. And for his fining or imprisoning hee referres himselfe to the sentences therin given. And saieth that all this was done by his Majesties command.

To the 20th Article that in the 15th and 16th yeares of his Majesties raigne hee had advized warre against Scotland, calling them rebels and traytors, and saied hee would destroy them roote and branch. To this hee answeared by setting foorth the whole storie at large of all the passages, counsells, advices and armings in that particular and how farre hee was an actor in those affaires or an advizer.

To the 21th Article that hee desired to subvert the rights of Parliament in Scotland and advized the breaking of the Parliament in Scotland and advized his Majestie to take other courses to gett monie. Hee confessed the thing but saied hee meant honest and lawfull courses.

To the 22th Article, That in the yeare 1640 hee caused the Parliament in Ireland to raise fowre subsidies and an armie of 8,000 papists, to oppresse with them the kingdome of England; Hee answeared that the saied fowre subsidies weere most freelie given by that Parliament, and the armie agreed upon by them to bee raised and to bee placed in the North of Ireland to bee readie to oppose the Earle of Argiles armie in the North of Scotland. And both these alsoe weere desired by his Majestie.

f. 262b] To the 23th Article by which hee was charged to have advized his Majestie to dissolve the last Parliament; and after to make use of the armie of Ireland to subdue the kingdome of England. To the first hee answeared that (Mr. Treasurour whome hee called) Mr. Secretarie Fane was the sole cause of the breach of the last Parliament:[18] and for the other advice denied the same, and that hee never intended other but lawfull waies.

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[18] "That the last parlyament Secretary Vane was sent to the house to demande xii subsydyes for the shyp mony. Strafford desyred ytt myghte be reduced to viii. Syr Henry Vane sayde they woulde not geve a penny and so vote the breake of the parlyment." Gawdy, f. 6b.

To the 24th that hee saied the Parliament had forsaken the King and advized him to have recourse to other waies: hee answeared hee did not remember that hee spake the first words; and advized onlie lawfull courses.

To the 25 Article touching sheriffs to bee questioned in [*blank*]

f. 263a] February 26, Friday, 1640.

After a long and unnecessarie dispute touching the referring of the late controverted election of the Burgesses of Warwicke to the committee of priviledges, it was at last over ruled that it should goe thither, and that noe question should bee putt of referring it to anie other Committee.

An act for the setling of certaine lands and tenements upon the heires males of William Copley Esquire and for the enabling of him to make leases for one and twentie yeares of all or parte of the mannours of Maze, Gatton and Lee farme in the Countie of Surrie.[1]

Then was the Conference reported which the Lordes had desired of us on tuesday last (the 23 day of this instant Februarie) much to the same purpose as it is ther sett downe. SIR WALTER EARLE reported what the Lord Keeper saied, MR. REINOLDS what was delivered by the Earles of Holland and Dorset, MR. HAMDEN what the Earle of Bristow spake, And MR. WALLER what the Earle of Hartford related. Soe it was ordered upon MR STROUDS motion and seconded by SIR WALTER EARLE that on tuesday next wee should take this reporte into further consideration, in the morning.[2]

Then wee entred upon the busines of the Earle of Straffords answeare read yesterday: to which I spake first and saied.

That wee had yesterday attended with great patience to all the Answeares of the saied Earle of Strafford; which came exceedinglie shorte of my expectation: For I looked from him to have found all things that should *sublime spirare ingenium;* and witnesse that great and vast depth of witt and iudgment that was generallie conceived to bee in him. For all or the greatest parte of what hee had sett downe, was verie weake and invaled and might bee reduced to three heads. First absolute negations and of what force cann that bee against positive witnesses. Secondlie allegations that hee doth not remember certaine words hee spake or doth, *interpretatione molliri,* sett a new glosse upon the meaning of those words: God for-

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[1] A Committee was appointed to consider this. C.J. II, 93.

[2] After Earle's report and before the Strafford business Moore (f. 278) inserts several items, which are all mentioned in C.J. but arranged in somewhat different order.

"Serjeant Ewers hath leave to goe into the country.

"Doctor Edens subcommittee is made a committee and hath power to receave petitions.

"Ordered that the committee for martiall law shall have power to send for commissions, and what ells may conduce to ther busines.

"Ordered that the Sheriffe of Newcastle shall amend his returne, or stand committed.

"Ordered that the peticions of Burwell shall be referred to the committee of the Queenes Joynture."

bid wee should not suffer everie man to expound his owne meaning. *Cor linguæ interpres.* The heart cann best interprett the toung; but the sadd actions which have alreadie followed those counsells being written in capitall and miniated or redd letters, doe now debarre not onlye himselfe but the most charitable heart living to make a candid interpretation of them. Thirdlie hee useth that old shift, that *antemurale malorum,* the common excuse of Delinquents, His Soveraignes command. Wee all know that Kings are but men, they still are and formerlie have been subject to error. They have therfore in this kingdome not onlie Judges to counsell them but a private counsell at law, and a Counsell of State. And all these are tied to give the King faithfull counsell. And if for want of that hee command them to doe anie thing against law, ther guilt and punishment is not lessened but aggravated by his command. For often such men doe first advize the Prince what to doe, and then obtaine themselves his command for the doing of it: Thus in William Rufus time ther was a clergieman a Bishop that wrought much evill to the realme. H. I questioned him, but his allegations that hee did it by the Kings authoritie nothing lessened his crime; noe not though the matters had passed under his owne brothers raigne. Soe in Rotulo Parliamenti de a°. 21°. R. 2, n°. 17°,[3] Sir John Cobham being accused of high Treason alledged that hee had done it by the Kings commandement. But that was accounted noe iustification, soe as his condemnation soon after followed. I love not to cite anie presidents of the Parliament held in a°. 11mo. R. 2, or of this other held in the 21th yeare of the same King. I know they weere both *armata comitia* yet in some particular proceedings ther is verie good use to bee made of them: as in the present instance, for the Parliament in this saied latter yeare did exceedinglie complie with the same King: soe as if hee had conceived in law that
f. 264a] his commands had excused the saied delinquent. It would easilie at that time have been taken into consideration. This is the case of bloud now before us, and I conceive it most iust if this great delinquent could possiblie iustifie himselfe that wee should give him not onlie dayes and weekes but months alsoe. But ther appeared in this case noe possibilitie of the same, seeing manie witnesses that could not bee sworne, weere of no value to proove a negative against a few witnesses, who had upon ther oaths prooved an affirmative. Besides I could not but againe renew the memorie of that commensurate case to this purpose that I had formerlie vouched of William de la Poole Duke of Suffolke, which may bee of some use in this case. For the Record is expresse (Rot. Parl. de a°. 20°. H. 6, n°. 48°.) that hee obteined a copie of the 26 Articles preferred against him upon promise that he would answeare the sooner. Fowre dayes after that copie given hee was called againe (n°. 49°.) and answeared upon his knee by himselfe; as the direct words of the Role are; whence I was bolde to

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[3] *Rot. Parl.* III, 381-382. Cobham's case is Placita no. 10, not no. 17.

say and still may affirme, that hee answeared without counsell. This man therfore having now had about one and twentie dayes to make his defence, and that alsoe with the helpe of counsell, wee may well desire his speedie triall. Tacitus reports that Nero had two bosome counsellors Burrhus and Seneca. Burrhus was a man endued with courage and resolution, Seneca with wisedome and iudgment. And that these two during ther continuance together about Neroes person, notwithstanding the violences of Agrippina his mother, did soe advize and moderate him: as they made the first parte of his raigne happie. But this great man being an Anti-Burrhus, and that other little man of the clergie (I meant the Archbishop of Canterburie) being an Anti-Seneca, endeavoured to have turned a most gracious, iust and Christian Prince into a Nero. And by how much the blacker ther Counsels and advices weere, by soe much the moore glorious and excellent is his Majesties declining them; who now *solis instar ex nubecula,* like a bright sunne breaking out of a darke cloud, hath disperst his raies of iustice and goodnes upon all his loiall and faithfull subjects. To touch all his answeares weere infinite; I shall shortelie name but three of them. The first touching the calling of the sheriffs into the starrechamber about the shipmonie, to which I cann experimentallie say a little; it was a matter of verie high and dangerous consequence, and would within the compasse of halfe an age have ruined all the gentrie of England, and have reduced them to the lowest state of calamitie. Assoon as the Lord Leiftenant came out of Ireland the last yeare and during his stay heere, weere those terrible and threatning letters *instar fulgaris et fulminis* like thunder and lightning sent to the severall sheriffs: to all which ther never wanted a Wentworth or a Strafford. Nay when one sheriffe (I meant myselfe) which I know verie well, did in a petition concerning that matter of Shippmonie, but shortelie sett foorth what was the ancient and municipall law of the realme, for the verie presumption of but vouching the law, hee procured him to bee speedilie called into the starrechamber, and to bee proceeded against *cum effectu.* For that other Article touching the Irish armie: that it was raised to oppose the Earle of Argyle (who commanded an armie in the North part of Scotland the last summer) it is possible it was soe at first intended, at least by his Majestie but what was even at first plotted by this great man may well bee suspected. Armies wee know have been converted to other designes then those for which they weere raised. Wee need goe noe further then this kingdome it selfe. The Brittaines heere ancientlie as Gildas Albanius and Gildas Badonicus doe witnes, called in the Saxon to ther aide, who at last turned ther armes and weapons upon the saied Brittaines themselves and almost whollie rooted them out. For that other Answeare touching the condemning of the Lord Mount Nor-
f. 265a] reys to die (which had been done against law by a Counsell of warre in the time of peace for a few triviall wordes onlie) that hee

never intended to putt that sentence in execution; I conceived this did aggravate the fault and crime; as if the honour of a Peere ioined with his life weere to bee ieasted withall. It is not unlike to that practice of the Emperour Vitellius in Tacitus, who at his drunken suppers, would in his rage command men to bee putt to death: and then the next day at dinner hee would aske for the same men. They tolde him they weere executed according to his command. Oh saied the Emperour I did not intend it. And in this case what if the Lorde Mount Norreis had died *ob animi mœrorem,* for verie indignation of heart as many great Spirits have done, or had escaped out of prison, had not hee been destroied by this condemnation in feast. I therfore concluded that first I conceived hee ought to have noe longer time given him to answeare, but that wee should demand iudgment of the Lordes against him: and that wee should likewise make protestation that ther Lordships allowing the Earle of Strafford councell and permitting him to answeare by the saied councell in writing, are both against former presidents in Parliament and against law.[4]

Mr. Pymme wished that a Committee might bee appointed to consider of the validitie of the saied Answeares.

Sir John Clatworthie spake long, and shewed the falsitie of divers of the Earle of Straffords answeares,[5] and cleared the Earle of Corke from the false aspersions laied upon him in the same: but hee used many violent speeches against the Earle of Strafford,[6] which made Mr. Hollis to rise upp and to desire that all such speeches touching anie mans person might bee forborne.

Sir John Culpepper moved that nothing of this dayes worke might bee communicated to the saied Earle of Strafford: but that the former proposition of referring this busines to a Committee might bee pursued. Others spake alsoe to this busines.[7]

Sir Thomas Roe shewed that the Earle of Barkeshire had desired him to signifie to this Howse, that wheereas the Earle of Strafford had accused him in his answeares to have enformed him that day the Parliament was dissolved, that the King intended to dissolve the same. Hee denied that hee at all spake to the Earle of Strafford concerning the same, and averred that it was impossible hee should enform the saied Earle of the same because hee came not that morning to the counsell table before but after the same Earle.[8]

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[4] The Earl of Cork had himself made the same protest when the answers were read in the House of Lords, as is recorded in his diary, under the date Feb. 24, as follows: "The Earle of Strafford brought in his answer in wrytinge, . . . where among many other untrewthes by his answer did chardge me with having a pardon for having cawsed unlawfull oathes to be taken and other undue meanes to be used concerning the colledg of yoghall; that I was fyned 15000£ to his Majestie, wheruppon at my sute the bill in the castle chamber and other proceeding were taken from the fyle." Grosart, *Lismore Papers* (first series, 1886), V, 170. In *Lismore Papers* (second series, 1888), IV, 184-187, will be found the Earl of Cork's answer to Strafford.

[5] "That my lorde of Straffords answeare consysteth of shameles denyalls or fryvlous shyfts," Gawdy, f. 7a.

[6] Moore (f. 278) does not give the speaker, but these must be Clotworthy's words: "Solon whoe was the lawmaker, and making diverse lawes against murder, he did an acte that whosoever went about to violate any of these lawes then it should be lawfull for any man to kill that man, to this he compares Strafford for goeing about to subverte the lawes."

[7] One of these was Digby, who at this early date led the House to consider the

Mr. Sollicitor moved that the saied Earle of Straffords answeares might bee referred to the Committee formerlie appointed to draw upp his charge.

Soe it was ordered that the saied Committee with the last addition of the fowre lawyers should consider of the saied answeares and what may bee the speediest way to bring the saied Earle to his triall: and to have further proceedings against him. They weere to meete in the Treasurie chamber at two of the clocke this afternoone.[9]

Harl. 164, f. 127a] A petition of the Earle of Kildare Sir Adam Loftis Viscount Ely etc. that wheereas they weere to have reparation from the Earle of Strafford etc.[10]

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advisability of changing their procedure from impeachment to bill of attainder. Gardiner, who knew nothing of this speech, puts the first suggestion of going by bill on Apr. 10. IX, 329.

"Lord Dygby that the lawyers should be appoynted to drawe a bill for the attaynting the Earle of Strafforde." Gawdy, f. 7a.

"Lord Digby saide: That hee conceived the best and only way of attaining our ends in doing Justice, upon my Lord Strafford, was to doe it by Bill rather then by Judgment; because muche scruple might remaine with the Lords and others of the quality of the offences, to bee Treasons: And indeed by the Stat. 1° Mary 1 Tryall of Treasons is excluded otherwise then by the Common Lawe, and the Stat. of 25 Ed. 3 and therefore hee did thinke wee could nott attaine unto our purpose by any other way then by Bill." Peyton, f. 93.

His suggestion of adding four lawyers to the committee is also interesting. That they were only to give legal advice does not seem probable in view of the fact that Whitelocke from this time on assumes the chairmanship. In his own *Memorials* (I, 113) he implies that he was chairman of the committee from its first appointment. But his recollection evidently played him false here, as it did in other details about the committee. May it not be that there was some politics in Digby's suggestion of the four lawyers? Was not the substitution of Whitelocke for Pym as leader of the committee perhaps intentional?

[8] "Whereas the Earle of Strafford alledges that the Earle of Barkeshire told him that the kinge was resolved to dissolve the last parliament and the Earle of Barkshire doth protest he never told the Earle of Strafford any such thinge and desyres this house to have noe such conceit of him." Moore, f. 278.

[9] "Ordered that the Committee for the Earle of Straffords chardge with the addicion of Mr. Mainard, Mr. Selden, Mr. Palmer, and Mr. Whitlocke shall now consider of the artickles of impeachment, and his answeare, and of the witnesses and proofs and are to proceede in the secreat and speediest way for to bring him to triall." *Ibid. Cf.* C.J. II, 93.

[10] "Sir John Clackworthy. Preferred a Petition in the behalfe of the Earle of Kildare, Lords Dillon, Loftus, Mount Norris and Mr. Hoye: That because the Lord Straffords Landes and goodes would upon his Attainder come to the King by confiscation: They therefore desired, that the house would bee pleased to take some course for ther reparations." Peyton, f. 94.

Soe Committee was not appointed to advize of this. SIR JOHN CULPEPPER moved that this not referred: Kings right etc.[11]

Ordered none should visit Earl of Strafford except Sir G. Wentworth.[12]

MR. PALMER MR. SOLLICITOR MR. MAINARD MR. WHITLOCKE THE LORD DIGBIE and MR. STROUD protested they had kept secrecie in the busines touching the Earle of Strafforde.[13]

After a motion SIR JOHN COKE (sonne and heire to Secretarie Coke) spake, that the Earle of Strafford had laied some imputations alsoe upon hia Father who was not soe active a man for the time as hee who succeeded him in his place.

After a motion or two of little moment SIR JOHN CULPEPPER etc., that Sir John Coke might explaine himselfe etc. SIR WALTER EARLE wisht it might bee forborne and such words noe moore used.

Then MR. TREASUROUR who had succeeded Secretarie alsoe in Sir John Cokes place saied that hee hoped that etc. if hee did hee wisht it might bee noe further questioned which was well approoved. Hee added that as hee came upp the staires the Earl of Northumberland Admirall, Secretarie, etc. that Sir John Pennington come in with one of the Kings shipps, noe pay etc. all like to faile shortelie and not a shipp at sea.

Soe then it was agreed that wee should read the articles against the Archbishop of Canterbury being engrossed,[14] etc.

Many runn out. I moved to have them sent for etc. that staied others etc.

Then Mr. Speaker doubted on first article if hee had procured men to preach, etc. I moved in Helyns case etc. *et qui non prohibet iubet.*

As many as are of opinion that these articles thus engrost with the title and conclusion shall bee sent upp to the Lordes in maintenance of ther charge of high Treason against William Archbishop of Canterburie let them say I. Soe many affirmatives without anie No.

Then Sir Henrie Fane the yonger after himselfe and two others had been long called on went with the message to desire a conference etc. of both Howses.[15]

Then a petition preferred by the inhabitants of Blacke Friers and others[16] against the play howse ther etc. hinderance of trade, by Alderman Pennington. Hee spake to further it. I etc. A good petition. Gods howse not soe neare Divils. This a particular greivance this and the other a generall. All the objection men without them could not tell how to imploy them themselves etc. Others spake against this playhowse and others.

Then Sir Henry Fane being returned his reporting that the Lords would give us a present meeting brake offe our agitation.

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[11] "It was conceived that the King would bee entitled to the Landes ect: by his prerogative, and therefore the house declined the matter, and referred it to bee mooved to the king by the Petitioners, if they would present ther desires." *Ibid.*

Moore (f. 278) states that the committee for Strafford was "to take into consideration the Earle of Kildare, Lord Brabston, Lord Loftus, Lord Dillon, and Lord Mount-Norris peticion, with all such other peticions against the Earle of Strafford, how they may be repaired. But this petition was crossed."

[12] "It is ordered that secresy shall be kept by all members of this house of what hath passed concerninge the Earle of Strafford and that noe shall have accesse to him save onely Sir George Wentworth, and he hath protested upon the faith of a gentleman to keepe secret what this day hath passed." *Ibid.*

[13] According to C.J. (II, 93) it was only the four lawyers who protested secrecy at this time; D'Ewes's list suggests that some at least of the original six did so also.

[14] "Which were formerly ordered to be ingrossed, were now read." C.J. II, 93.

[15] "Concerning Articles to be presented against William Laud, Lord Archbishop of Canterbury in maintenance of the Commons charge, whereby he stands accused of High Treason." C.J. II, 94.

[16] St. Martin's, Ludgate, and St. Bride's. Moore, f. 278. *Cf.* C.J. II, 94.

Soe Mr. Pymme tooke the engrossed Articles with him and went away with divers of the Howse[17] to the conference.

Mr. Pymme saied that they weere come to present the charge etc.[18] then Mr. Mainard read the Articles. After, it

Then Mr. Pymme spake fullie touching the aggravation of the Archbishopps crimes. First that in those articles ther weere expressions which hee would not undertake to explaine viz. of Spirituall wickednes. Ther was pride without limitation malice without provocation, and iniustice without anie meanes of reparation. Hee desired to acquire to himselfe an arbitrarie power without bounds, which was against the honour of the King and safetie and tranquillitie of the kingdome. Hee acquired this great power under religious pretences but prooved a malitious prosecutor. Hee corrupted the verie Judges in lay Courts, and solde himselfe Justice by retaile: That hee claimed his great power by other meanes then the law affoorded; and would have brought in Idolatrie and superstition to the destruction of the King and Kingdome. That hee laboured to sett division not onlie betweene the King and people heere but betweene the two kingdomes of England and Scotland with other matter to the like effect.[19]

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[17] Hampden and Maynard. C.J. II, 94.

[18] *Cf.* Rushworth, IV, 195.

[19] For Pym's speech see Rushworth, IV, 199-202. Moore (ff. 281-283) gives a version of Pym's speech which differs enough in details to deserve reproduction:

"Mr Pim in the painted chamber to the lords. Then Mr. Mainard read the artickles. Afterwards Mr Pim began as followeth. My lords their is an expression which I will not take upon me to explain, which is spirituall wickednes in high places. Here is prid[e] without moderacion, malice without provocacion, of the[?] gultines Iniustice without any meanes of reparacion, a traitor against the King, and church: an Incendiarie against the Kingdom.

"1. First an arbitrary power without limitation it is against the law of this kingdome, and against the safety and tranquillity thereof.

"2. The maintenance of his power. It seems to be a religious power but what pitty is it that ministers should be prosecutors.

"3. Corrupting of judges.

"4. Selling Justice by retayle.

"5. A power of usurping by making canons and very pernicious and destructive to the kingdome.

"6. A papall power, Ecclesiastical jurisdiction claimed by another right then the lawes afford. Here you may observe how he went about to sett himselfe above the King, and to make his throne his footstole.

"7. You have popery and superstition, and power to maintaine it by starchamber, and councell table, and by bloody execucion thereof.

"8. His care for getting ecclesiastical power and his wicked care in disposing of them, and by using all meanes to corrupt the seminaries of learninge and all the kingdome.

"9. The like care to have chaplains of his owne to maintaine and set up his mischievous desires.

"10. He comes to close with those that have authority from the pope, and if a man but goe from his owne church he is punished.

"11. Preaching supprest, people punished and to seeke in foraine countries for the bred of life because they cannot have it at home.

"12. A division betwixt the reformed churches Christian Church is one body, and he goeth to suppresse.

"13. As he went to set division betwixt us and the reformed churches, soe he endeavors to doe the like betwixt Scotland and us and seekes wars.

"14. By seeking to undermine persons, by bereaveing us of the highest court of this kingdome, the parliament, and hath endeavored to deprive the king of the love of his subjects.

"The Commons desyre to have the same way as in the lord of Strafford."

The Clarke to send upp the engrost articles.

Ordered that the petition of the inhabitants of blacke Friers should bee referred to Secretarie Windebankes committee.

f. 127b] Post Meridiem.

The remainder of the petition[20] of Mr. Beddall and Mr. Duncan against Dr. Peirce Commissarie at Ipswich was heard. In which it was prooved that hee would enforce men to take ther oath, and to pay fees about wills which weere not to bee prooved before him but in the prerogative Court. That hee cited and prosecuted men for one offence and drew upp his sentences against them for another offence. Hee extorted by himselfe and his officers extreame fees: and would not though required to it hang upp a table of fees. That hee excommunicated men for not receiving the sacrament when yet it was evident that they presented themselves to receive, and onlie refused to come upp to the raile, and putt the same persons to great charges. Soe Dr. Peirc had five weekes time given him to answeare to these and other former articles prooved gainst him.

Then was the Norwich petition read against Bishop Wrenn and the present Bishop and the Chancellor and the under officers.

In which it was prooved that Dr. Corbet the saied Chancellor had told a man that hee ought not to pray in his familie; unles hee had the spirit of God and that none had the Spirit of God but onlie such on whome Bishops laied ther hands. Hee called Mr. Allen and Mr. Bridges two godlie ministers, Two seducing devils.[21]

Harl. 162, f. 268a] February 27, Saturday, 1640.

An act for the enabling of the sale and leasing of lands for the paiment of the detts of Thomas late Earle of Winchelsey. Soe upon the question it was ordered to bee committed. And a Committee was named. This bill came ingrost from the Lordes and was read the 2d time. Sir William Strickland named Committees out of a paper. And Mr. Cage spake against it as a thing against the orders of the Howse: which was agreed by the Howse, and wisht such courses should bee forborne. They weere appointed to meete on thursday next at two of the clocke in the afternoone in the Court of Wardes.

Mr. Gore of Lincolnes Inne came to the barre who had saied that one Mr. Profit a minister had made a speech Sir Francis Seymour now Lorde Seymour had spoaken the last Parliament in this Howse. Hee saied hee did not remember those wordes; but if hee had spoaken them hee was sorrie. Soe hee was dismissed[1] paying the Serjeants fees.

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[20] This was of course a meeting of the Committee on Bishop Wren and the diocese of Norwich.

[21] Moore (f. 283) records the following notes of a committee session in the afternoon:

"Mr Pearde in the chaire for courts of justice. Feb. 26, 1640.

"33 H. 8, shews how the sherifs hold their pleasse.

"As many as are of opinion that Sir Francisse Popham ought to be releaved upon the whole matter, and resolved upon question.

"As many as are of opinion that Sir John Bramston knight cheife justice of the Kings Bench is free and cleare from any unlawfull proceedings, or stayinge of justice in Clegatts case say A and resolved upon question."

[1] "But at the intreaty of the lord Seamor he was dischardged." Moore, f. 284.

It was moved that wee should make an order to receive noe petitions but I spake against it and dashed it, shewing that, though wee dispatched little and men complained of it, yet to make an order heere to refuse petitions would bee a iust greivance. It was expresselie against Magna Charta. *Nulli negabimus iusticiam.* I would have noe order made, but let everie member in his owne discretion forbeare to receive anie petitions but of great concernment.[2]

Then it was moved that a day should bee appointed to read publike petitions of Counties, and friday next was appointed for it.[3]

It was moved that an addition might bee made to the Committee for the Ministers remonstrance which was severallie disputed and at last overruled upon the question that ther should bee an addition; which was made accordinglie and I was one of those who weere added.

Then Serjeant Wilde shewed that his case had been often appointed to bee heard touching his iniurie received from Sir Henrie Harbert who had given him evill wordes and stricken him alsoe at a Committee: soe hee now desired reparation. Some would have had it putt offe, but one Mr. Norcott[4] shewed that Sir Henrie Harbert had since abused two other members of the Howse viz. Mr. Prideaux and Mr. Constantine: and soe divers moved to have it now heard. I shewed that I knew neither of the gentlemen, and soe inclined neither way. I thought it now seasonable to bee heard: and was of the poets minde. *Et sol decedens crescentes duplicat iras:* that the longer wee deferred it the worse. I conceived if witnesses did proove it in the affirmative ther should bee use of anie on the other side. I wished that noble gentleman would onlie in the place wheere hee stood make a publike satisfaction: which I hoped the other gentleman (viz. Serjeant Wilde) would accept. But afterwardes upon further dispute it was ordered by Serjeant Wilds owne consent, that the busines should bee peremptorilie heard this day sennight: and Sir Henrie Harbert was upon his owne motion spared from sitting in the chaire in Sir Lewes Dives committee for the busines of Worstershire.

Then Mr. Whitlocke shewed that the Committee appointed to consider of the Earle of Straffords answeares desired to know how they should proceed whether by way of bill or otherwise.[5] Divers spake to it and all

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[2] This general motion may have been provoked by this: "Dr. Medcalfe peticioned that he beinge hebrew professor in Cambridge, might have a senior fellowship, whereas they would prefer him to a junior fellowship, but the house would doe nothing in it." Moore, f. 284.

[3] "The great petition forth of Essex is to be read upon friday, and all other peticions of that nature from severall counties." *Ibid.*

[4] "Mr Napper." Moore, f. 284. But D'Ewes is probably right. Norcott of course meanes Northcote, a member known to us for his *Notebook.*

[5] "For his speedy bringinge to sentence." Moore, f. 284.

Moore agrees with D'Ewes as to the point on which the committee desired advice, declined a bill: then wee came to advize whether wee should desire a conference with the Lords or not about it. And that being spoaken unto by divers,

I stood upp and moved, That wee might have noe conference with the Lords about the Earle of Straffords answeares; because that would further question our rights and retard the proceedings of the present busines. For I now am and alwaies was of opinion since I heard those answeares read; that wee had iust ground to goe and demand iudgment against him. For wee had not yet allowed his counsell, nor needed to take notice of the use of them unles ther names weere added to the papers. I assured my selfe of Justice from the Lordes and wisht wee might doe our best endeavours to hasten it. The Articles weere divers of them evident and plaine and such f. 269a] as weere manifest Treason. In former cases a speedier course was taken upon like occasions. In Rotulo Parliamenti de a°. 21. R. 2. n°. 15°[6] The Commons impeached Thomas Arundel Archbishop of Canterburie of high Treason. Hee having great alliance amongst the Lords they refused to committ him to prison, pretending his spirituall function. Wheereupon n°. 16°[7] upon the same Role it appeares that they did not delay time by anie conference with the Lords but desired the Kings iudgment might bee given according to ther former impeachment: which was effected with great expedition. My advice therfore was that wee should first see if the Lords would denie us Justice: and then wee might advize what further course to take by protestation or otherwise. Soe the matter was referred backe againe to the same Committee[8] to prepare the saied busines of the Earle of Strafford for a speedie sentence.

whether or not they should proceed by bill of attainder. Peyton (f. 94) gives quite a different point and follows it by a debate which is ignored by D'Ewes:

"Mr Whitlocke desired; That the Committee that had the drawing up of the Answere to bee made to the Lord Strafford's, did command him to desire the direction of the house, whether they would make use of some members of ther owne to mannage the evidence at the Barre or the Kings Counsell: ect.

"Mr Bridgman said, That since the Lords had began to allow the Lord Strafford Counsell hee supposed that they would continue to allow it him at the Barre; in maintenance of the point of the Stat. 1. H. 4, C. 10, and 1 M. 1, by which hee is nott guilty of the High Treason laide to his charge, in the manner and forme of it, ect.

"Mr Glyn saide, That noe man can have Counsell upon the Statute whether Treason or noe Treason: Butt when the matter is prooved, then is it left to the Judges to iudge of the quality of the offence; soe that only the facte is maintaineable by the Parties, ect.

"Mr Waller saide, That Counsell is nott admitted in matter of fact: because as a Counsellor hee ought to conceale the fact, and as a good Subiect reveale it, ect.

"Mr Constantine saide, my Lord Strafford being accused of High Treason by all the Commons of England hee cannott bee allowed Counsell, because every one was a party and none could plead for him."

[6] *Rot. Parl.* III, 351.

[7] *Rot. Parl.* III, 351.

[8] "To the discrecion of the committee." Moore, f. 284.

Harl. 164, f. 127b] Soe we went to the worke of the day to know what monies might bee had. ALDERMAN PENNINGTON shewed, that the cittie of London brought in ther monie apace, and hee hoped, the 60,000£ promised would speedilie bee all brought in.[9]

MR. HIDE shewed that hee hoped of 50,000£ from particular men,[10] but they objected a Scottish paper sett out[11] and, MR. HOLLIS saied they had noe minde to lend.

SIR JOHN CULPEPPER shewed that many weere willing to lend upon particular securitie[12] but the Earle of Straffords[13]

MR. CAPELL that Scotts to bee gone, or else what could wee borrow or why should wee lend.[14] SIR HUGH CHOLMELIE spake against him.[15]

SIR HENRE HARBERT saied those to whome hee etc. verie readie to lend most of them.[16] Soe divers spake.

All at an end: session too morrow etc. Scotts gone but now wee putt a stay. Ther declaration like sound etc. It satisfied mee now because nothing printed by them before, what Thuanus continuator print, anie thing heere As two speeches (Lord Digbies)[17] an order that nothing bee printed etc. For bill of subsidies a Committee to draw them upp. And for our selves I am of the same opinion I ever was, that wee ought to do all wee are able and soe should I.[18]

After SIR JOHN STRANGWAIES spake vehementlie against the Scottish paper.[19] SIR

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[9] "Then wee fell into debate concerninge the supply of the Kings army and the northerne parts whereupon Mr Alderman Pennington declared that he hoped the 60,000£ in gould in a very short [time] be in a redines." Moore, f. 284.

[10] "Viz. 25 persons." Peyton, ff. 94-95.

[11] "The Scotche paper . . . which discovered new Jealousies of differences and this they alsoe found the Objection upon the Exchange ect. for it hindred them from hoping for a speedy end of troubles." Peyton, f. 95.

The paper had been drawn up by Henderson at the order of the Scottish Commissioners declaring their wish to see Episcopacy abolished in England. It had been printed for the use of members of parliament, but a stationer printed further copies for sale. See Gardiner, IX, 296-297; Baillie, I, 305.

Baillie's comment (I, 306) on the getting out of the Scottish paper deserves quotation: "This put us all in some peice of perplexitie: our armie could not subsist without moneys; such a light accident had put all our enemies on their tiptoes, made sundrie of our seeming friends turn their countenance, and too manie of our true friends faint for fear."

[12] "Hee alsoe and others had beene wheere money was to bee had; butt the Lenders desired personall security, and nott the security of the subsidy, because it might bee Long a passing." Peyton, f. 95.

[13] "Butt he sayth they are troubled for the nott speedy and manner of proceeding with the Earle of Strafforde." Gawdy, f. 8a.

[14] "Till the Scotts were gone; wherefore should we either lend or borrow." Moore, f. 284.

[15] At this point Gawdy (f. 8a) gives the following: "Alderman Pennington that those that except att the Scottish paper are nott a consyderable number."

[16] "Harbert said their would be great store of money had, upon security." Moore, f. 284.

"He thynketh there wilbe mony enoughe to serve the turne." Gawdy, f. 8b.

"They had beene at S[c]riveners and at particular places. . . . The security that was desired was to bee personall." Peyton, f. 95.

[17] *Lord Digbies* in cipher.

[18] Evidently D'Ewes's own speech.

[19] "Their was a longe debate by Sir J. Strangways concerninge the Scotts paper which he most invectively spake against, and would have had it read, but the house opposed it." Moore, f. 284.

"Syr Jhon Strangwayes ys of opinion that the Scotts will nott owne the paper and that wee shoulde have a conference with the lordes that we may enquyre whether the

WALTER EARLE MR. STROUD and others[20] against the reading of it, and that Mr. Hide had done ill in reporting it seeing the 50,000£ was lent by those verie men notwithstanding that paper.

Then many exceptions weere taken at severall speeches which weere let fall from severall men; and ther weere many interrupted in speaking, and the face of things grew towards much heate and confusion SIR RALF HOPTON offering the Scottish paper to bee read: in the Howse and others declining it. At last it was averred that the Scottish Commissioners did disavow the printing of it: And soe after long and vehement debate it was laied aside as a matter not worth the further arguing: which had raised one of the greatest distempers in the Howse that ever I saw in it.

Then wee fell upon the matter of giving securitie for monies to bee borrowed and who should bee bound. SIR THOMAS BARRINGTON moved that a declaration might bee drawen to assert this to bee done for the safetie of the kingdome and the service of the Howse. SIR JOHN HOTHAM opposed it. After a motion or two I desired to reconcile the two different opinions by a protestation and to save our priviledges. f. 128a] I shewed I had drawen it before and presented it to the Howse but our securitie sleeping, that slept alsoe. I did therfore desire the same course might now bee taken entred heere and enter on the Parliament Rolle to bee transmitted into the Chappell of the Rolls. This would save our liberties etc. And if others would not doe it I desired to have it done for myselfe.

Then divers mistaking one another still spake, some that ther might bee a declaration others that ther might not. I stood upp once againe hoping to reconcile both sides proposing that two of either side might meete before monday next and draw such a declaration as might bee ioined with a protestation to save our liberties. But it being neare one of the clocke and the Howse desirous to rise nothing was determined in it.

But it was ordered, that wee should resume this busines againe on monday morning.

Harl. 162, f. 271a] March 1, Monday, 1640.

An act for the better suppressing of alehowses, and tipling howses, and for avoiding of drunkenes, and for the better restraint of the unnecessarie number of Maulthowses.

MR. KING made report from the Committee of Argier that they had thought fitt the King should bee intreated to guard the seas with seven shipps, and that everie man might that would sett out shipps against pirates of reprise without Letters of Mart or paiing anie thing to the King.[1] Soe

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Scotts will owne the paper for he conceyveth ytt wilbe a meanes to retarde mony." Gawdy, f. 8b.

[20] "Syr Jhon Eveling hath hearde some of the lord commissioners say that the Scotts dysavowe the paper and that they will move to have ytt called yn." Gawdy, f. 9a.

[1] Moore (f. 285) says: "Then Mr. Kinge reported concerninge the garding of the seas and the generall making of gunpowder."

Peyton (f. 95) sums the report:

"1, That there were betweene 4, and 5000 of the Kings Subiects, captives and slaves in Argiers and Tunis, ect.

"2, That they have certaine informations that there are 60 ships at Argiers and Tunis readie making to goe to sea to rob and spoyle.

"3, That 6 of's Majesties ships might bee sett out, of the 2d 3d and 4th rates to guard the seas and westerne Portes; and the king bee mooved to command it.

"4, That all merchants may bee free to take any Turkish or Moorishe Pyrate; and

Mr. Speaker thought this motion of soe great waight to deferr the further debate of it till the Howse weere full.[2]

An act for the suppliing of the defects of some statutes heeretofore made for the benefitt of the Artificers and handicrafts men, read. 1ª vice.

Then the Lord Falkeland moved that Dr. Chafin who had saied in a sermon From lay puritanes and lay Parliaments good Lorde deliver us,[3] having remained three weekes under the Serjeants hande might bee called into the Howse and at the barre receive a sharpe admonition, and bee dismissed. But this was opposed by divers and spunn us out a long and unnecessarie dispute. I stood upp and wishing to putt an end to the busines saied if the question might bee putt whether hee should bee sent to the Tower or not I would not speake; but when divers others weere intended to speake then I saied.

That I had long knowen this man at the Temple and never tooke him to bee deepe scholler but to say noe worse of him a sociable man. The words hee hath spoaken are of a transcendant nature. For his commending Archbishop Arundel and comparing the present Archbishop with him: I saied, I would add one particular moore which I had on[c]e before omitted when I spake to this busines. Archbishop Arundel being condemned of Treason instead of execution was onlie banisht, and soe fild the kingdome afterwards with warre and tumult. Yet at last the iust iudgment of God fell upon him; and hee had a swelling in his throate which within a few dayes kild him. And it is the observation of an ancient writer that it was Gods iust punishment upon him, that hee debar'd his toung from speaking that had inhibited and restrained other men from preaching. Now I saied I would add noe moore touching the pararel with the present Archbishop but that grammer verse:

Fustis funis panis penis crinis et ignis.

Soe then ther followed a long dispute after. Some would have him sent to the Tower and to have a sharpe reproofe at the barre: others that hee should alsoe make a recantation at Salisburie: others would have it an

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that wee may have a Conference with the Lords to desire them to ioyne to petition the king to suffer it."

Harl. 1601 (f. 44 *verso*) gives the report as it was repeated on the fifth (C.J. II, 96): "Mr. Kinges reporte from the Committy of Argeirs. Theare is now in Argeirs betweene 4 and 5000 captives. The Turks are nowe providinge 30 saile of shipps to lye uppon the westerne coasts. Not thought fit by the Committy that the captives should be redeemed by mony conceivinge it will make them cowardly and the French findinge them good prizes will the more indeavour to take them."

About the diary, Harl. 1601 see Preface.

[2] "Ordered that Mr. Kings report concerninge the Turkish pirates, and gunpowder be taken into consideration to morrow." Moore, f. 286. This order was not made until the end of the day. *Cf.* C.J. II, 95.

[3] Peyton (f. 95) adds in parenthesis: "which at the Barre hee submissively interpreted to have meant, Lay scismaticall Conventiclers and their Parliaments."

explanation: and some thought it an offense above all the other censures fitt to bee transmitted to the Lords.

At last the Speaker putting the question whether hee should bee sent to the Tower or not, it was over-ruled by voices hee should not:[4] and wee lost much time in dividing the Howse, and wee alsoe that would have had him sent to the Tower lost I beleeve many voices by our going out; divers staiing within rather then they would loose their places.

Then wee fell againe after wee had taken our places upon a new debate whether hee should bee sharpelie reproved at the barre onlie; or bee enioined alsoe to make a sermon to explaine himselfe at Salisburie: and at last after divers had spoaken to it[5] of which I was one; it was resolved upon the question first that hee should bee sharpelie reproved at the barre, and 2dly enioined to preach in the same Church at Salisburie wheere hee made the saied sermon, and to make an explanation and a satisfaction for it.

Soe Doctor Chafin being called into the barre and kneeling and then rising was commanded to kneele againe and upon both his knees, and soe continued kneeling till the speaker had acquainted him with the sentence of the Howse: and that hee should heereafter beware how hee did intermeddle with matters of that nature in his sermons, soe after hee had sett foorth his crime and shewed him the mercie of the Howse that laied no greater punishment on him hee was dismissed paiing his fees.

Then ALDERMAN PENNINGTON stood upp and shewed that hee had some propositions to make to the Howse from the cittie which if the House f. 272a] should please to allow of; hee did not doubt but ther would be an 100,000£ lent upon the two new subsidies[6] without other securitie. And for the 50,000£ which was offered by some with a Remonstrance annexed to it (viz. it was offered by one Captaine Langham and others to Mr. Hide a member of the Howse, the Lord Digbie and two others,[7] with a Remonstrance of the dislike of the Scottish paper which was printed against Episcopacie) hee doubted hee saied least that should proove but colloquintida.[8] The propositions weere first; That this Howse declare that they who would lend an 100,000£ should at this time doe an acceptable service to this and to the Commonwealth. Secondlie that this Howse should send some of ther members to the Lorde, Mayor and Alderman to desire the loane of an 100,000£ to bee lent upon the securitie of the two new subsidies. And thirdlie that such members of this Howse might bee sent as the cittie had a good opinion of: which hee would name if the Howse would give him leave.[9]

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[4] "The noes were 190 and the yesse 189 and Mr. Shutleworth sittinge still and saying noethinge, some said he must be an I some said an Noe, but it was concluded that he must be an noe. Soe we lost it by one voyce." Moore, f. 285.

Peyton's comment is interesting: "Soe that herein is to be seene the danger of admitting Infants into the House, when it may come to ther single vote to overthrowe any Lawe." Peyton, f. 95.

[5] "Mr Stroode. Did not like that Dr Chaffeild should bee enjoyned to make a recantation (because it hath beene a Course of Ecclesiasticall power to make men by duresse to recant and confes against the conceptions of ther hearte; whiche wee doe here condemne) butt if hee should any submission and recognition, then to propound and direct this." Peyton, f. 95.

Nalson (I, 782) says of the Commons: "Had the King and Council proceeded at this rate against any of the Faction, imprisoned and punished them for words which might be drawn to an ill sence, it would have been esteemed the highest violation of the Magna Charta."

[6] "That if the house would send 6 members to the Lord Maior and Court of Aldermen to morrow morning, and offer the last 2 Subsidies for securitie for 100,000£ which hee doubted nott butt would bee accepted, and that noe thing might lye in the way." Peyton, f. 98.

[7] Probably Capel and Strangeways. This is the committee which was appointed on

Then it was soe ordered by the Howse upon the question in all those particulars as the saied Alderman Pennington had desired.[10] And the six members named by him weere Sir Walter Earle, Mr. Pymme, Mr. Hamden, Mr. Hollis, Mr Nathaniel Fines, and Sir Henrie Fane the yonger, The two citizens and the two burgesses of London.

Then the LORDE DIGBIE stood upp and shewed that hee thought Alderman Penningtons speaking of the colloquintida which was a venomous herbe did somewhat reflect upon himselfe and others, who weere imploied in the borrowing of that fiftie thousand pounds and soe desired the saied Alderman might explaine himselfe what his meaning was.[11]

SIR JOHN STRANGEWAIES and his sonne moved the same. But MR. PYMME, MR. HOLLIS and others shewed ther needed noe explanation. THE LORD FALKELAND saied that hee thought ther needed noe explanation; onlie

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the 23d "to treat with merchants and such other persons as they shall think fit" (C.J. II, 91). Clarendon (I, 284) says that they reported their success to the House the next day with the following result:

"The report was received with great applause by the major part of the House, as was reasonably collected by their countenance; but it was as apparent that the governing party was exceedingly perplexed with it, and knew not on a sudden what to say to it. If they embraced the opportunity to procure a supply of money which was really wanted, it would be too great a countenance to the persons who had procured it, and whose reputation they were willing to depress: besides, it would imply their approbation of what had been said of the disbanding, at least would be a ground of often mentioning and pressing it, and which, how grateful soever to most other men, was the thing they most abhorred."

[8] "Alderman Pennington . . . said that the gentlemen who had been last in the city to borrow money had made a fair report, but that in the end of it there was *colloquintida;* that he could not find with what persons thay had conferred about the temper of the city, nor that any considerable people troubled themselves with designing or wishing what the Parliament should do, . . . and concluded that the money that the House stood in need of, or a greater sum, was ready to be paid to whomsoever they would appoint to receive it." Clarendon, II, 284-285.

[9] "To pardon his presumption if he name the parties." Moore, f. 285.

[10] C.J. II, 94.

[11] "But the lord Digby standinge up and saying he conceaved the Alderman did somewhat trench upon him, and the rest of those which went to borrow monie, because he said some were more pleasing to the cittizens then others and he compared them to coliquintida. Therefore desyred that he may explaine himselfe, for that coliquintida is poyson." Moore, f. 286.

hee desired that the saied Alderman would declare that hee meant not to lay anie aspersion upon the gentleman that made reporte of the saied offer: (meaning Mr. Hide.) Then I stoode upp and saied, That unitie was the onlie meanes to make our actions and counsels happie. That I was sorrie to see men catch at wordes, when wee had golde offered us. I conceived ther was couler of aspersion or reflexion upon the gentleman who made the reporte in the wordes spoaken. It onlie concerned them who offered to lend. For as colloquintida being putt into pottage did frustrate mens expectations when they came to feede on it. Soe perhaps when the Kings armie had relied on the saied 50,000£ to have been fedd by it; they would have failed of it. I desired therfore all offences might bee laied aside, this noe way concerning the gentleman that made the reporte.

Soe the matter after a motion or two more was laied aside.[12] And Mr Hollis renewed a Reporte hee had formerlie made in this Howse touching the Lordkeepers answeare made to him and some other members of this Howse, when they moved him to putt all clergie men out of the Commission of peace. That hee should bee most readie to serve this Howse and obey our commands. But this being a matter of great waight hee desired this Howse would bee pleased to move the Kings Majestie in it.

Soe it was agreed after some dispute, that wee should desire a Conference with the Lordes; and a Committee was named[13] of which I was one to prepare reasons and motives to bee presented to the Lordes, to perswade them to ioine with us in desiring this of his Majestie and wee weere to meete too morrow in the afternoone at two of the clock in the Court of Wardes.

Then it was moved that wheereas this day was appointed for the debating what penaltie they had incurred who made the late new canons and the oath, which debate was this day putt by, with other busines: that now too morrow morning might bee appointed for the same: which after a little debate was ordered accordinglie.

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[12] Moore (f. 286) gives the debate as follows:

"Them some said coliquinda if it were poyson in the mouth, yet not to the hearers, others said it was but a bitter thinge to kill fleas. Others that wee should not catch at words when there is gold to be taken.

"But at length it was resolved that the Alderman should not explaine himselfe. And then the Alderman said that the citty would not onely lend the first 60,000£ upon the last subsidies, but 100,000£ more upon the two other subsidies, this he spake to the answeare of Mr Caple."

D'Ewes and Moore took it all very seriously; not so Hyde: "The House made itself very merry with the alderman's *colloquintida,* and called upon him to explain it; and so the debate ended, all men being well pleased to see the disorder they were in, and the pains they had taken to free themselves from it; which every day was renewed upon them, as the subject-matter afforded occasion; and they visibly lost much of the reverence whch had been formerly paid to them." Clarendon, I, 285.

[13] C.J. (II, 94-95) names twenty-three members of the committee. Moore (f. 286) gives four names and says there were "20 more." One of the four named by Moore is Sir John Hotham, evidently the twenty-fourth member, as he is not named in C.J.

f. 273a] It was likewise ordered[14] that after the same debate ended Mr. Kings reporte made this day touching the Argier pirates should bee considered of in the Howse.

Mr. Pymme moved that the Committee appointed formerlie to examine witnesses in the Earle of Straffords cause might bee revived againe, because ther weere two materiall witnesses newlie come out of Ireland which was granted accordinglie.

Harl. 164, f. 128b] The Ministers Remonstrance.[15] Divers examples alledged of which I brought two that men gott institution upon meere false titles: Mr. Rivers case I alledged. Then upon couler of Simonie they instituted men that had noe title. I alledged Mr. Jermies case. Proved alsoe that sometimes the Bishop would putt offe the person presented till the patrons six months weere elapsed. They are by the Stat. de a°. 13°. Eliz. onlie to subscribe to the nine and thirtie articles of Religion: but they have since forced men to subscribe to the booke of Canons 1603, and now of late to other new opinions. When they are to bee instituted. And also force them to answeare to new questions touching new inventions or opinions, as whether Episcopacie weere of divine right, whether bowing at the name of Jesus bee not a pious and laudable ceremonie. And for not assenting to these, Linwood, l. 3. *de Institutionibus,* Cap. *Quia iuxta,* etc. The ordinarie is by an ancient Canon to take nothing for institution. They are by law to take but 3s 4d and it was proved that sometimes they take 5£, 6£ and 7£ for institutions. The Chancellors doe often give institution; which as it is absolutelie against the law of God soe it is a burthen as it is practiced. For induction alsoe it is often done avuncularlie[?] and slightlie: wheereas by law the Archdeacon or his officiall are to doe it, and by an old Canon in Linwood l. 3, *de Institutionibus,* Cap. *Item Quia,* under Archbishop Stratford, and the Archdeacon was to have 3s 4d and the official 2s. A Bishop by the old Canon is to enquire *De Scientia, Moribus et Ordine,* of him that is to bee presented. In Linwood *de Institutionibus* Lib. 3, *Cum Secundum.* The Bishop ought to deferre institutions two months and to make proclamations before institution that the people might take notice. That notwithstanding institution and induction ministers are forced to take licences to preach, from the Bishops, ther officialls and commissaries. They give licences to phisitians midwives and meate-dressers in lent which they have noe relation unto as Ministers. They dispence with things unlawfull as pluralities and Non Residences. In the yeare 869, Photius at a Counsell was accused in the Easterne Church for being the first that brought preists to take licences to preach. In the Councell of Constantinople this was decreed. In England Archbishop Arundell a°. 2do. H. 4, Cap. 15,[16] procured a statute that none should preach but in his owne cure without licence. Soe as under Arundell himself the Vicar and Parson might preach in ther owne cures without licence. And in the verie iniunctions in a°. 1°. Eliz. the Curates Rectors and Vicars weere not to bee putt to take licences to preach in ther owne cures.

Harl. 162, f. 274a] March 2, Tuesday, 1640.

Upon Serjeant Wilds motion that some lawyers might bee added to Sir Lewes Dives Committee, divers weere added and myselfe was nominated and putt in amongst others.

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[14] This page in the manuscript is wrongly dated Mar. 2.

[15] These are undoubtedly minutes of a committee sitting in the afternoon.

[16] *Stat. of the Realm,* II, 126-127.

An act against usurie (viz. to reduce it to 6£ per centum)[1] was read 1ª vice.

An act for the disinabling of the clergie to exercize anie temporall or lay office or commission in his Majesties Courts of Justice[2] within the realme of England and dominion of Wales.

Then divers motions weere made touching the exacted fees of Judges men and the bribes given to Judges in ther circuits[3] for the restraining therof, and it was thought fitt to bee done by a law, and soe it was answeared ther was an act alreadie drawen.

Sir Anthonie Irbie had libertie to goe into the cuntrie to the funerall of the Ladie Wray his mother in law.

Then Mr Rigbie moved that wee might finish the last vote ommitted on thursday the 25 day of Februarie last past, viz. who should pay the damages of Doctor Bastwicke sustained by the sentence in the starre-chamber against him. Mr. Speaker saied that ther was a question in law whether Dr. Bastwick not answeareing might bee condemned *pro confesso.*

I stood upp and shewed that Dr. Bastwicks case was much moore difficult then soe. For hee was not sentenced *pro confesso* for want of an answeare, but they first refused his answeare, and terrified Councell that none would sett ther hands to it: and then adiudged him *pro confesso* as if ther had indeed been no answeare at all. And yet in Doctor Leytons case his answeare was admitted in the same court though it had noe Councellors hande to it.

Soe after a little dispute it was resolved upon the Question That satisfaction should bee given to Dr. Bastwick by the Archbishop of Canterburie and those who gave sentence against him in the starre-chamber.

Then it was moved that satisfaction might be made by the Lord Coventries heires or executors of a parte therof; who was Lorde Keeper and ioined in that sentence. Some spake that notwithstanding hee was dead ther might a parte of satisfaction bee made out of his estate. Others weere of a contrarie opinion saiing it might bee of dangerous example.

I moved, That this question was well started and deserved our mature consideration: for the reason used against it, that it might bee drawen into example, did cheifelie induce mee to approve it, seeing by this example other iudges might bee forewarned from giving uniust sentences. For if a Judge might from a small beginning in a few yeares roule upp an estate of two or three baronies, and then when a Parliament comes bee sicke of it and die and noe satisfaction bee made it might encourage men to doe evill: yet I conceived that ther was a great difference to bee made betweene an uniust iudgement of a Judge which might happen through error: and betweene briberie and manifest iniustice. Nor was such restitutions other then a dett which ought in law to bee paied after the debtor was deceased. And wee want not presidents of former times. For one of the Spensers in E. 2 time oppressed manie and in E. 3 time restitution was made to them who had been wronged by him: and his personall estate appeares to bee soe vast on the Parliament Rolle as it would bee incredible almost to bee beleived weere it not upon Record. Besides the phraise of paiing detts or making satisfaction on the Communia Rolls of H. 3 are *remittere anima.* That was the phraise then; and though wee are now taught better divinitie; yet by making satisfaction to persons oppressed; we shall *consulere fames et consulere Justiciæ.* I much doubted whether wee might not make this f. 275a] satisfaction without passing a new law; not onlie out of the estates of such as had by iniustice and briberie wronged private men, but out of the estates of such alsoe as having enioied great offices under his Majestie had defrauded him of his treasure or of the revenue of his crowne. If this could not bee done by the common law which I much doubted, then I concurred with those who did wish that a Committee might bee named to draw a bill that the executors and heires of all such might bee liable to the same satisfaction that the partie should have been liable unto if hee had been living: and this to reach from 1° Caroli for the time past, and to endure for all time to come.

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[1] "For vi£ per centum for those that lend monie, xx£ forfeitt for the clarks, that takes above xiid and ther Scriveners but 5s for brogidge upon the same penalty." Moore, f. 287. *Cf.* Rushworth, IV, 202. Gawdy adds (f. 10a): ". . . to contynue for vii yeares and so to the end of the next parlyament."

[2] ". . . to be excluded from all temporall offyces and commissions except yn the upper house." *Ibid.*

[3] "In exacting fees and entertainement of severall sherifes at the Assiza." Harl. 1601, f. 42 *verso.*

Soe it was moved after a little dispute that it might bee referred to the Committee that was to consider of the Jurisdiction of the starre-chamber of which Committee I was to draw upp and to prepare a bill to this purpose. Soe it was ordered that it should bee referred to the saied Committee to prepare a bill and to present it to this Howse how farre the heires or executors of such iudiciall and ministeriall officers are chargeable and are to make satisfaction for the oppressions and extortions of the same officers since 1° Caroli. This latter clause since 1° Caroli was onlie added upon my former motion.[4]

Then wee fell upon the busines of the day, and the order of yesterday morning was read; by which it was appointed that [we] should this morning take into debate, what penaltie the clergie had incurred by making and constituting the new canons in ther late synod.

Mr. Bagshaw of the Middle Temple beganne and spake verie long, using much discourse nothing pertiment to the matter in question. Other particulars hee urged well.[5] That a prohibition at common law was to prevent clergie men from giving judgment in a lay fee. And a praemunire was to punish them after they had given iudgement. That Ecclesiasticall encroachments 5 E. 4, fol. 5, weere accounted preiudiciall to the Kings crowne as well as the common law, when they intermedled with anie matters which weere onlie triable by the common law. That though the statutes of praemunire weere originallie intended for the suppressing of the usurped power of the Pope, yet at this day if the clergie shall exceede the power given them by the King against law, they incurre a praemunire. That his Majesties Commission granted to the late synod bearing date May 12, last past, gave them power only to make canons that should not bee repugnant to the law: That by the Statute de a°. 13°. Eliz.[6] whosoever should teach or constitute anie thing contrarie to the 39 Articles of Religion established should incurre a praemunire: which they had alsoe done in some of these new canons, called the communion table an altar and commending adoration and the like. If anie should object the statutes of praemunire onlie concerned the Pope; tis plaine they mention Ecclesiasticall Courts alsoe. And if it shall be further objected that those Courts weere then the Popes but now the Kings, Hee answeared that the Bishops keepe those courts in ther owne names or in the names of ther officialls and commissaries. Cardinall Wolsey was found to bee in a praemunire though hee had a Commission for what hee did. And the Law hath noe other meanes to regulate those Ecclesiasticall Courts but by a prohibition or a praemunire. And soe hee concluded that they had incurred a Praemunire.

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[4] "The Comitty for Lorde Liftennants are to prepare a bill." Harl. 1601, f. 42 *verso*.

[5] Though D'Ewes seems to have thought but little of this speech, he has given us a

Mr. Hill a lawyer alsoe shewed, That by the Statute de a° 16°. R. 2, c. 5,[7] The clergie doe runn into a praemunire by executing that which is not in ther commission: and this they had done. Nay they had endeavoured to subvert the fundamentall lawes of the realme and to administer a new and dangerous oath; and therfore hee was of opinion that they weere guiltie of high Treason as well as the Earle of Strafford or the Archbishop of Canterburie whome wee had impeached. And having exceeded the Commission granted, hee conceived that would noe way mitigate ther offense: and soe concluded that they weere guiltie of high Treason.[8]

very good summary of it, much better than the fragmentary notes of either Peyton, Moore, or Harl. 1601. These, however, do add something to D'Ewes's account and are omitted only because of the much fuller report of the speech in print. Bagshawe, *Two Arguments in Parliament, the First concerning the Cannons, the Second concerning the Praemunire upon those Cannons* (1641), 23-43.

[6] But *cf. Stat. of the Realm,* IV, 547.

[7] *Ibid.,* II, 84-86.

[8] "Mr. Hill.

"16. R. 2, c. 5, a praemunire for executinge that which is not in their commission.

"Old *Natura brevis,* 153.

"Primo E. Sixt. That the bishops sending forth their precepts was in a praemunire.

"The bishop of Bath and Wells, was forced to sue forth his pardon.

"7 H. 8: A praemunire. 4 H. 8, 1 H. 8, Their were 100,000£ which fine paied to that king for running into a praemunire.

Then ther followed a long silence and the Speaker stood upp one or f. 276a] twice to know what question hee should putt, whether of Praemunire or of Treason: some cried of Treason, but most of Praemunire: and as hee was readie to putt the question touching the Praemunire, MR. BRIDGMAN a lawyer of Lincolns Inn, and sonne to Doctor Bridgman Bishop of Chester stood upp and saied, That hee conceived the clergie who made the new canons and late oath neither to bee guiltie of Treason nor to have incurred a praemunire. Because all the statutes of praemunire weere onlie made and intended for the repressing and punishing of those who introduced the Popes exorbitant power. That now all Ecclesiasticall iurisdiction is annexed to the crowne and derived from it. That the late Synod proceeded by the Kings Commission, which thing alone frees them from the Compasse of a Praemunire. For Cardinall Woolseyes case it differd from this: hee was questioned for exercizing a Legantine power from the Pope. And by the verie Stat. de a°. 25°. H. 8, if they shall doe anie thing without the Kings Commission, they are but to bee fined and imprisoned.[9] And therfore hee concluded that in this case,

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"2, 3 and 4 Ed. 6, If any clergy man put in execucion any thing unlegally it a praemunire.

"High treason in those bishops and convoc[ation] and not a praemunire; and cit[e]s this following acte 18 Ed. 3 and King James seconds it. We have voted Strafford Can[terbury] and Finch, and I conceave these full as bad.

"To take away the life of the King is treason and therefore to take away the law by which the king and kingdom is governed the like. These men have laid their hands upon the crowne and as much as in them lay went about to overthrow the king and kingdom.

"Those cannons have appealed diverse acts of parliament as for making probates for sueing of his Majesties subjects and against Magna Charta and petition of right to grant monies without consent.

"12 Ed. 1.

"They take upon them to administer an oath which they cannot doe as in 10 Ja., 1 H. 7, Empson and Dudleys case.

"To answeare the objeccion of Mr Holl[es] that he said, they had a commission, I say that if the kinge commanded an unlawfull act it is not the Kings commande.

"Langtons case. Simpsons case and nowe in this kings time in Chambers and Bromefelds case who now had 5000£ damadge.

"P[age] 2 et 3: in this holy synode he concludes with the last words, that is treason." Moore, f. 290.

"Mr. Hill. He holds that it can be no lesse then a premunire. 16 R. 2. 5 to hold a plea of that which belonges not to his iurisdiction incurres a premunire. In 7° of King James resolved in this house that the makinge out process in their owne name incurres a premunire, this without a contradictinge voice. 4 Henry 8 Standish a doctour in divinnity. 3. 4. Ed. 6. 11. This offence is highe treason. They have outrunn Strafford and Canterbury. They are Nimrods. They would set up popish goverment and take away the lawes, they have made themselves independent to the kinges lawes. They have taken uppon themselves to repeale acts of parliament. 5 Elizi. they cannot compell churchwardens to take the oathe. In case of heresy they had a years liberty before they weare excommunicated. The kinge cannot graunt any such Jurisidiction beeinge illegall so it is all one as if they had noe Commission. New Cannons. page 2. 3." Harl. 1601, f. 43.

[9] *Stat. of the Realm,* III, 460.

wheere they proceeded by the Kings Commission, they could bee neither guiltie of High Treason nor incurre a praemunire.[10]

Harl. 164, f. 129a] Serjeant Wilde moved that to deferre it till too morrow morning, and soe did others[11] and then it was deferred accordinglie to bee resumed againe too morrow morning.

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[10] Peyton's report (f. 99) of Bridgeman's speech is as follows:

"Mr Bridgeman. That the makers were nott in a Praemunire. In Forensian Jurisdiction betweene party and party they may Incurre a Praemunire, in exceeding ther Cognizance: Butt 25 H. 8, 19 and 21 H. 8 the enacting of Canons was noe Praemunire, ect. Convocation hath a legis-lative and a Judiciary power to convent offendors; for citation of Dr. Standishe the Cleargie was conceived in a Praemunire, ect.

"Cardinall Woolsey had a Legantine power, nott a power as the Archbishop of Canterbury; *legatus natus* to use with his seale; butt hee had a Legantine power from the Pope, and the other bishop upheld him in it; by which the Praemunire was Incurred, and tis forreine power only which the Statute reaches unto, ect.

"The Commission of the Convocation only gives them power to treate and prepare matters for the king; which done the Convocation ends, and yett the matters prepared have noe life, till the king consent and signifie it under his great seale by letters patents.

"A Commission to execute any thing, from the king; is noe shelter to any man against the party, butt yett it is a shelter against the king, and a Praemunire shall nott bee incurred thereby, ect."

Moore's version (ff. 290-291) differs in details from Peyton. It is as follows:

"Mr Bridgeman saith that the makeing of the first statute for a praemunire, was for the installinge of the Romish church, upon our church. 16 Ric. 2: 3 H. 5, and all other statutes have their expocicion from R. 2, 1 Eli. that al former statutes are taken away by this.

"All ecclesiastical Jurisdiction is annexed to the crowne and are the kings courts, and all bishops have their power from the crowne, nor can they come into a praemunire, though they goe beyonde their commission.

"12. J. That they were not in the compasse of a praemunire.

"A legis lative power, and Judiciary power.

"I dare boldly say the convocacion is in noe praemunire for makeinge of cannons, they haveinge legis lative power.

"Wolsey was in a praemunire but for what, for haveing a legantine power here, and the other bishops for ioyneing with him to incroch upon the kinge.

"25 H. 8, c. 9, They shall not enacte make or sett forth any thing without the kings consent, if they doe it is but fine and imprisonment.

"Soe he concludes that they are not in a praemunire, but their is an other way to be used for their error."

Harl. 1601 differs somewhat.

"Mr. Bridgman. As this case is noe colour of premunire. 25 Ed. 3. 27 Ed. 3d and 16 Rich. 2. The usurpation of forraigne power the cause of makinge the statutes of premunire, the usurpation of the clergy of Roeme upon the Church heere. The body of the acte coupled to the preamble. All after statutes have relation to that of 16 of Rich. 2. 2. H. 4, 4 taken away. 1. Ed. 6. 2. It must be against the kinge his Crowne and his regality to make it a premunire. 25 Henry 8. 17 and 21 Henry 8 a legislative and a iudiciary power. The convocation had they convented offendors sent a citation out against Dr. Standish. The Cleargy in a premunire for that citation never any indited of a premunire for their legislative power. Cardinall Wolsey had a legantine power from the Pope for exercisinge this. The convocation nowe have only a preparatory power, their legislative power is taken from them. The power and life of the Cannons comes not from them. 15 Ed. 3. 3. 17 Ed. 3. This repealed in the same yeare as beeinge against the kinges prerogative; if an oathe be administered by any iurisidiction from without they are in a premunire or worse." Harl. 1601, ff. 43-43 *verso*.

[11] Mr. Perd. Moore, f. 291.

Then Mr. Kings two votes, etc. at Argiers. 1, for 7 shipps. **Sir H. Fane** shewed that could not bee etc. 2, That men might have what they take without letters of reprise, or paying anie thing to the King or Admirall.

Divers spake to this latter clause or question. **Mr. Potter** that the Lord Admirall was willing, soe as men might give caution.

I shewed that caution must bee used etc. Venetians in danger, etc.

Post Meridiem.

At Mr. Prinns Committee. The petition of Isaacke Knight, it was prooved that being before the High Commissioners at Lambeth Jan. 26, 1636 (as appeares in the petition) and by an order of Court being suspected to have been at private praiers hee was offered the oath. Hee desired to bee satisfied in conscience. The Archbishop tolde him the walls of the Fleete should satisfie his conscience and saied Take him away Jaylour.

2 June, 1637. Hee was sett at large after some 4 months imprisonment and tooke not the oath *ex officio* at all, but gave two bonds one of the penaltie of 500£ and the other of 100£ both with sureties to appeare when hee should bee called and to stand to the order of Court. Hee was before hee was released [to pay a] fine or six weekes close prisoner in the saied Fleete. But being once gotten out hee fledd into Holland. His enlargement proceeded from his owne petition to the Archbishop though long after. His losses weere one way or other above 500£.

Soe voted that his committment was against law and the libertie of the subject. And 2^{dly} that hee ought to have reparation for the damages hee susteined against those that weere the authors of his imprisonment and of his close imprisonment.

Harl. 162, f. 277a] March 3, Wednesday, 1640.

An Act for further preventing the abuses in winding of wooll and against undue ingrossing of wooll within the realme of England.[1]

Ordered that this Howse desireth that all the Lawyers of the same will take into consideration the drawing of the bill for the repeale and continuance of Statutes, and to prepare it, fitt to bee presented to the Howse.[2]

Then was a petition preferred in the name of divers inhabitants of Cambridgshire against the draining of the fenns:[3] upon which some debate followed, and another petition was preferred in the name of the six Counties wheere the levelling of the fenns lay, viz. Norfolke Suffolke Cambridgshire Lincolne Huntingdon and Northamptonshire. It was moved that the knights and Burgesses of the saied six shires might bee named and the Kings sollicitor to bee of a Committee. But ther was nothing ordered in it.[4] Moore power was given to the Committee touching post-maisters, to receive all petitions of the same nature.

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[1] "23 H. 8, this statute is grounded and upon the 13 yeare of Queene Eli." Moore, f. 291.

[2] "And the care of it especially recommended unto Mr Selden." C.J. II, 95.

Peyton's comment here (f. 99) deserves quotation: "The Bill of Continuances is fitted and prepared alwaies by the Lawyers of the house: and being soe prepared for Commitment; it is alwaies committed to a Committee of the whole house."

[3] "A petition from the lords and gentry of the county of Cambridge against the Drayners of the great levell in that County." Moore, f. 291.

[4] Moore adds this further business: "Sir John Bowsier desyres that this house would

Then in respect of great and many businesses (but especiallie to keepe Marquesse Hamilton from question whome the ill partie of the Howse would have called in question to have hindred us from soe good an instrument about the King) it was after some debate ordered, that noe petitions nor anie new thing should bee admitted into the Howse for a fortnight. Then it was resolved upon the 2d question that all that sate in the chaire in Committees should have power to receive all petitions conducing to that Committee.[5]

This being setled Mr. Mainard made report from the Committee of Priviledges touching the Election of the citizens or Burgesses of New Sarum. Serjeant Hide and Mr Houlesworth weere choosen by the Mayor the fowre and twentie and the eight and fortie. Mr Dove and Mr. Ivie weere elected by the whole number of the other Citizens.[6] It was spoaken unto by divers, and the reasons given for the Mayors election weere: That since H. 6 time the choice had alwaies been made by the Mayor the 24 and the 48. That before it was made a cittie a° 11mo H. 3 the inhabitants had burgagia ther, which did implie it was a Burrough towne before. On the other side it was alledged, that it was the generall law of England that all free men should have voices. That if anie such right of prescription had been, yet that in the Parliament de a° 33° E. 1 the Mayor and citizens surf. 278a] rendred ther charter and ther liberties, rather then they would bee subject to the Bishop of Salisburie to assesse Tallage on them.[7]

Mr Selden spake for the election amongst others of Serjeant Hide and Mr Houlesworth and alledged that ther holding in Burgagio before the 11th yeare of H. 3 did implie they weere a burrough before and sent burgesses; which now could not appeare upon Record because many Returnes weere lost.[8]

I stood upp next him and saied, That the two gentlemen choosen by the Mayor and the lesser number had been both long knowen to mee, and did

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give leave that some members of this house may be examined before the Lords in a case their depending." *Cf.* C.J. II, 95.

[5] C.J. II, 95.

[6] See Sir R. C. Hoare, *History of Wilts,* VI, 390-392.

[7] "New Sarum surrendred ther corporation and seale by certaine Attornies they sent to the Parliament about Tallage." Harl. 164, f. 129b.

"In 11 H. 3 it was granted to the bishops that they should be the bishops citty and might have power to divide their burgesses as formerly.

"37 Ed. 1 The bishop said the cittizens *pro tallagio* that the[y] choose the maior, and one other to be their attorney, and in the parliament they were enioyned to deliver their *commune sigillum,* which they did, and therefore they will have them to hence deliver up their charter, but it was more then the attornies had in commission and therefore would not doe it, and 34 Ed. 3, they renewed their charter. And their is noe charter where in they can make it appeare that ever they had power to electe burgesses for parliaments." Moore, f. 291.

[8] "Mr. Selden. That the right of sending Burgesses to the Parliament is suche a service to the Commonwealthe, that it cannott bee discontinued translated or any waies altered, ect." Peyton, f. 99.

therfore challenge respect from mee. Wheereas I never heard the names of the other two till now. I did conceive much of that which had been saied on either side was out of the way. For it did not much conduce to the decision of the present question what was done in H. 3 or E. 1 time. Yet for that which had been alledged that they had held Burgagia before the 11th yeare of H. 3 when the towne was made a cittie, I did positivelie deliver that for law, that to hold Burgagium, was much moore ancient then the sending of Burgesses to Parliament; and therfore it could noe wayes bee inferred from thence, that it did send burgesses before that time. I confessed many returnes to Parliament weere lost, but I was confident ther never was any returne sent from New Sarum before the saied 11th yeare of H. 3 of burgesses elected ther to the Parliament. Such a monument weere well worth the seeing. But for the matter in question wee soe direct a statute in the point in a°. 23°. H. 6 cap. 15,[9] that ther canne bee noe iust couler of dispute. For the verie wordes are, That the citizens in everie cittie and the Burgesses in everie Burrough shall elect the citizens and Burgesses to bee sent to the Parliament. This Statute was made in affirmation doubtles of the Common law, which is the same in Townes as in the Counties, wheere ancientlie all the freeholders had voices. I concluded therfore that the saied election by the Mayor and a few others was absolutelie void and against the hereditarie right of the subjects of England. Mr Holburne a learned lawyer of Lincolnes Inne seconded mee: that the same election was void.[10] And soe after some few motions besides, The Speaker putt the question, viz. As many as are of opinion that the Election of Serjeant Hide and Mr. Houlesworth for new Sarum is good let them say I. Soe the greater number cried I. Then hee added as many as are of another opinion let them say No. Soe divers saied No, of which my selfe was one.

Then some doubt arising which number was the greater and neither being willing to yeild to other, it was agreed wee should divide the Howse. But then the Question grew who should goe out the affirmatives or negatives, The Speaker saied those who saied No weere to goe out: but divers affirmed the contrarie. I saied, That if the Question had been putt whether Mr. Serjeant Hide and Mr Houlesworth should sitt in the Howse or not, then I should have been of opinion that the Negatives should have gone foorth. But now it being put off the Election it was cleare, that wee who saied No, stood for the statute law, and common law of the realme and would not have an innovation; weere to sitt still in the Howse and not the I's, who held against the Law. And this was the constant rule in Queene Elizabeths time. Soe other dispute following, wee at last who saied No rather then the great busines of the kingdome should miscarrie by anie further contention went out.

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[9] Cap. 14 instead of 15. *Stat. of the Realm,* II, 340-342.

[10] "Mr Holborne. That if a Burrough send Burgesses and after bee made a Corporation, yett it holdes the right of sending Burgesses still as a Burroughe, though the Corporation bee surrendred or any waies voyded. Butt if by Grant the right of sending

The tellers for those who saied I weere Mr. Fane and Mr. Ashburnham. For us who saied No Sir Edward Ascu and Sir John Corbet. The affirmatives weere reported by them after the casting upp to bee 216. And the Noes 133. Soe it was ordered that the Election of Serjeant Hide and Mr Houlesworth for the cittie of New Sarum was good.[11] I knew many gave ther voices out of affection espetiallie for the sake of the Earle of Pembroke Lorde Chamberlaine of his Majesties household, whose secretarie Mr. Houlesworth was: and yet I was exceedinglie troubled to see a busines for which upon all the debate I had heard in it I could see noe couler of Justice or law to bee carried by soe great a number of voices, against the vote of the religious and sound men of the Howse.

Mr. Mallorie spake shortelie of the miseries and calamities of the f. 279a] Northren partes, and therfore desired that same instant course might bee taken to send monie thither, especiallie into Yorkeshire wheere the Kings armie lay.

Mr. Serjeant Ailif and Sir Robert Rich a Master of the Chancerie brought downe 5 bills or Acts engrossed in parchment from the Lordes. Serjeant Ailiffe read the titles of them all as they weere endorsed on the back side of each Act: and then delivered each of them assoon as hee had read them to the Speaker, who putt offe his hatt when he tooke them.

The saied Messengers being withdrawn the Speaker stood upp, and read the titles of them all over againe; being of noe great moment and most of them private bills: of which one was intituled, An act to enable the Marquesse of Winchester to grant estates for 3 lives or one and twentie yeares etc. of lands in the Countie of Southampton etc. reserving the old rents. I wrote this title from the indorsement itselfe on the act, and the two etc. weere ther soe found.[12]

Burgesses bee limitted to a Corporation of a fewe: then a Surrender of the Corporation or their *Commune Sigillum,* is a Surrender of the right of choosing of Burgesses." Peyton, f. 99.

[11] "The house was devided and the noes were lost. I was one went forth, . . . Soe it was ordered that Hide and Holesworth eleccion were good, though contrary to law." Moore, f. 292.

[12] See C.J. II, 96. Moore (f. 292) gives slightly fuller details of these acts.

"An acte for the setling and estateinge upon the Right honorable the lady Elizabeth countesse dowager of Excester her heirs and assigns for ever, the sitte of St. Leonards perpetuall without the towne of Newarke upon Trent in the County of Nottingham with the dwelling house upon, and other lands.

"An acte to enable the Marquisse of Winchester to grant estates for 3 lives or 21 yeares of certaine lands in Southampton reservinge the old rent.

"An acte for the naturalizinge of Dorothy Spencer daughter of Henry Lord Spencer of Woringleighton.

"An acte for the naturalizinge of John Kirke James Kerke merchants and Mary Kerke wife of John West children of Mr. Vice Kerke merchant.

"An acte for the naturalizinge of Richard Bogan, Christopher, Hester and Madelin Bogan, children of Richard Bogan Esquire of the citty of London."

The LORD FAIRFAX moved that wee would now speedilie take into consideration the providing of monies to bee sent into the Northren partes.

ALDERMAN PENNINGTON therupon stood upp and shewed, that hee was mistaken the other day when hee desire[d] six members by him then nominated should bee sent to the Lorde Mayor and Alderman to borrow 100,000£ of them, as if hee had been certaine that the monie would bee lent:[13] for hee onlie advized that the saied meanes might bee assaied: but hee confessed that they had now found a repulse:[14] and therfore himselfe and some five or six others had mett together and had agreed to lend each of them two thousand pounds apeice.[15] MR. HOLLIS being one of them who was sent affirmed the same. THE LORDE DIGBIE and some others laied great blame on the saied Alderman[16] for naming members of the Howse himselfe, and undertaking soe much by himselfe, which hee could not effect: and others excused him:[17] and soe much heate followed upon it,[18] as had scarce happened before in the Howse.[19] MR. MARTIN and MR. COMPTROLLER repliing each upon other with foule language.[20] But at last the heate was laied aside; and wee fell upon the debate of raising monies.

Wee had not proceeded farre in that necessarie debate when a Message was brought from the Lords by Sir Charles Casar the Master of the Rolls;

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[13] "As if hee had saied 100,000£ had been readie." Harl. 164, f. 129b.

[14] "That there will nott be that readynes for the last 100,000£." Gawdy, f. 11a.

[15] "But some few persons metteing together have lent 2000£ apeice whereof the alderman is one, the sum in evidence is 1400£." Moore, f. 292. Moore must mean 14,000£. But *D.O.* (45) has put it even lower: "Amounting in all to 4000£."

[16] "Saied it was a presumption in the Alderman." Harl. 164, f. 129b.

[17] "Mr. Fynes excused it and saied they had not discouraged the other monies." *Ibid.*

[18] "Sir William Udall declares that they have but 40,000£ of the 60,000£." Moore, f. 292.

[19] It was probably at this point that Rigby made remarks that caused him temporary embarrassment. A Richard (?) Radcliffe, writing from London to Rigby's brother, George Rigby (March 5), says: "Your brother in London when the business was in agitation in the House of Commons, concerning the two last subsidies, took occasion to say our hearts go one way, and our tongues another. Whereupon they cried: 'to the bar with him.' He desired he might be heard forth first, which being granted, his speech was approved and all was right." *Kenyon MSS.* (*Hist. MSS. Comn.*, XIV, App., Pt. iv), 60-61.

[20] "Then Mr. Comptroller blamed Alderman Pennington for presuming to name men and not referre it to the Order of the Howse and desired that Alderman Soames might bee desired to imploy himselfe.

"Mr. Martin saied hee now saw the gentleman that spake last did name one Alderman before another etc.

"Then Mr. Comptroller etc. Mr. Martin the meanest comparison etc.

"Mr Waller rebuked the Alderman etc." Harl. 164, f. 129b.

"Then Sir Thomas Jermin mooved that Alderman Somes should be intreated to move the citty to lend monies, and somethinge invectively against Pinnington.

"Then some passages beinge betwixt Mr Martin and the controller, it had like to have brought distraccion, and then Mr Waller said that Pennington made the citty beleeve he was a great man here, but he was sure he showes himselfe noe great man in the cittie." Moore, f. 292.

and Mr. Attournie: by which ther Lordships desired a free conference presentlie by a Committee of both Howses in the painted chamber touching the 8th Article[21] of the Scottish Treatie for the demolishing of the fortifications of Barwicke and Carlile if it might stande with the conveniencie of this Howse.

Soe the saied Messengers being withdrawen wee concluded to give ther Lordships a meeting presentlie.[22] And the Speaker signified soe much to the saied messengers being againe called in. After ther second departure Mr. Treasurour and others weere named reporters, and it was agreed that though the Lords desired a free conference, yet the saied Reporters should not enter into debate of anie thing but onlie desire libertie to communicate the matter proposed to the Howse.

Wee then hasted to the painted chamber; I stood next Mr. Treasurour and heard well. The Earle of Arundel began and tolde us that the Lords f. 280a] of the Upper Howse considering the great charge the kingdome was at, had considered of the 8th Article propounded by the Scottish Commissioners, and had amongst themselves agreed therunto as they had expressed in that paper.[23]

And then showing us the saied paper hee was[24] the same: the substance of which was, That they thought it fitt for the setling of a true and firme peace that all the new fortifications made about Carlile and Barwicke should bee slighted and demolished, That the garrisons should bee removed. That they further thought fitt, that the Lords Commissioners of England should presse the Commissioners of Scotland to know if they had anie further particular demands and what they weere: that soe they might speedilie bee taken.[25]

Harl. 164, f. 129b] Mr. Treasurour shewed that wee had not at all yet debated the 8th Article and soe could give noe answeare for wee weere debating the providing of monie when ther messengers came. Soe being returned Mr. Treasurour made the reporte and read the paper and the clarke read it after him,[26] and soe hee reported the rest.[27]

Then the Lord Digbie moved, that wee should presentlie vote what the Lords had agreed on, etc. Mr. Hollis opposed it and desired time to consider.[28] Then wee after other disputes fell upon the matter of monie.

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[21] For that article see L.J. IV, 112.

[22] "After a little dispute." Harl. 164, f. 129b.

[23] "The Earle of Arundel etc. tolde us that the Lords desiring a free conference to end the present troubles and to make a peace desired to enforme us what they had done." Harl. 164, f. 129b.

[24] "read." *Ibid.*

[25] "That Scotts Commissioners might bee prest to sett downe all ther demands, that a full and firme peace might bee constituted, etc. if the Howse of Commons consented." Harl. 164, f. 129b.

[26] For the contents of this paper see L.J. IV, 175.

[27] "Then Mr. Treasurour said that he and the other reporters replied to the lords, that when this message came from their lordships this house was in serious consultation concerninge the providinge of monies and therefore could give their lordshipps noe answeare, but in due tyme they will give their lordships an answeare." Moore, f. 293.

Mr. Treasurour spake effectuallie to raise what wee could ourselves.

Divers saied what they would bring in or bee bound for monie.[29] Then they would have had names read of men formerlie bound that I opposed as a thing compulsorie, f. 130a] for case now cleare altered. So I desired everie man[30] might speak freelie and no names bee read. I desired to satisfie men that our protestation to have our liberties, etc. Upon this condition I saied I would bee bound for 2,000£ having proffered but for 1,000£ before. I did not wish a declaration to allow the necessitie etc. Then divers offered to lend or bee bound for severall sommes till the howse rose a little after one.

Harl. 162, f. 280a] Post Meridiem.

The Committee touching the Jurisdiction of the High Commission and Starre-Chamber of which I was sate in the Chequer Chamber. And Dr. Ducke came thither to make defence of the iurisdiction of the High Commission, with two other Doctors. And first hee saied that hee conceived the iurisdiction of the high Commissioners to bee founded not onlie on the Statute de a°. 1°. Eliz.[31] but on the Kings supreame power in Ecclesiasticall matters; by which hee may give his Bishopps or others power in all Ecclesiasticall matters both criminall and civill. But for the particular grants in those Letters Pattents whether they weere according to law or not, hee saied hee came not to dispute, nor how farre the Kings Prerogative did extend.

Hee thence iustified ther sending out of attachments of mens bodies and taking them and imprisoning them both before and after proceedings in the saied Court. By that also they had power to fine, and to allow alimonie to mens wives; and this latter hee helde to bee a meere Ecclesiasticall matter. And soe hee saied that all matters touching marriage weere meerelie

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[28] "Then fell a debate whether we should fall in discourse concerninge this answeare, or the procuringe of monies and at length we concluded to deferr the Scottish proposicion till to morrow." *Ibid.*

[29] "And then any man that would, either bring in monie, or be bounde for it to speake freely, and then began

"Mr. Treasurour will bring in	500£
"Ingram	500£
"Sir G. Garard	500£
"Sir Ar. Haslerig	500£
"Sir John Franklin	500£
"Mr. Sutton and Sir Tho. Hutchison	1000£
"Sir Gerveste Clifton	500£
"Sir Thomas Barrington	500£
"Mr Martin	1000£
"Sir Sy. Dewes	2000£
"Sir Phillip Musgrave	500£
"Sir James Cauldell	1000£"

Moore, f. 293.

[30] This word and all that follows to the end of this paragraph is in cipher.

[31] *Stat. of the Realm*, II, 176.

Ecclesiasticall, and the Ecclesiasticall courts had conusance of them. And that if a man would not cohabit with his wife, they would compell him to doe it; or if hee drove her from him, they weere to give her maintenance.

Soe for amerciaments they had power to sett them: but for ther penalties sett upon intimations, that men should appeare, subpaena first of 20£ f. 281a] then of 40£ then of 80£ and soe *in infinitum:* for this they had no direct authoritie; to impose them; and much lesse to estreate them into the Exchecquer. Neither could Dr. Ducke maintaine this unles it weere either a fine or an amerciament. Soe alsoe hee iustified the oath *ex officio,* to bee authorized by the Letters Pattents. Then the Stat. de a°. 2do. H. 5, cap. 3 was read, by which they are inioined to give a copie of the libell to the partie complained offe; they denie to him a copie of the articles preferred against him in the high Commission Court: wheere they ought to proceede according to the rule of other ecclesiasticall courts; though they proceede with articles without a libell. To this Doctor Ducke answeared that they weere neither tied by the Commission nor by ther ordinarie course of practice to give copies. Then it was objected that the late Commission granted them by King Charles bearing date Dec. 17, a°. 9°. Caroli gives them power to hold plea of all matters within the Statute de a°. 5°. Eliz. cap. 1.[32] And by that statute they may enquire of Praemunire, felonies Treasons, and other offences. And then if they proceeded according to ther usuall course, to examine upon the oath *ex officio* they should force men to accuse themselves of high treason and felonie. Soe they have power to examine and punish offences conteined in divers other statutes; but they proceede in punishments contrarie to that course of proceedings which those verie statutes prescribd. To all which Dr. Ducke could make noe defence, but ingenuouslie confessed that hee knew not of this before; and added that the Kings Councell weere to answeare it who drew the Commission; and that all or most of the Judges had allowed it. Then for ther allowing wages to clarkes, hee saied they weere Ecclesiasticall officers, and weere ordinarilie sworne by the ordinarie. And hee added that though they did not intermeddle in civill causes, yet hee doubted not but that the King had power to authorize them soe to doe; and further affirmed that hee could shew presidents that they did intermeddle with meere civill causes during the first parte of Queene Elizabeths raigne. Then the Doctors often inculcated that they desired onlie to iustifie and maintaine the Kings power. Which made mee stand upp and say, That the language of this age was altered from that of former times. For in Placitis Parliamenti de a° 18° E. 1 n°. 5°, in the ancient booke in the Tower, the Kings crowne and dignitie weere alwaies ioined together against the power of the Ecclesiasticall Courts; and now it is pretended that those Courts doe uphold it; but the truth is wee are they that doe trulie stand for the Kings crowne and dignitie.

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[32] *Stat. of the Realm,* IV, 402-403.

March 4, Thursday, 1640.

An Act for the erecting of the parish of St. Pauls in the Covent garden, and for deviding the same from the parish of St. Martins and for the erecting and endowing of the Rectorie of the saied parish of St. Paul, read 1ª vice. Ther was a former bill preferred to this purpose, and once read but that was mistaken soe this was new read.

An act prohibiting the Importacion of forraigne playing cards into this kingdome to bee revived with some additions for the better executing of the same, read[1] 1ª vice.

Mr. Rouse preferred Dr. Cousens charge formerlie read in this Howse but not reduced into forme till now. Soe it was read over againe by the Clarke. And therin was shewed how Mr. Peter Smart one of the prebends of Durham, abhorring the Popish devices Dr. Cousens had sett upp, preached against them, for which hee was greivouslie vexed in the high Commission Court first at Yorke, and after at Lambeth: in both which the proceedings were most uniust and merciles. Having been alsoe cruellie imprisoned by the practices of Sir Francis Windebanke, Secretarie of State.

After the Clarke had read them over then hee beganne to read the title[2] that the same with the Articles might bee voted. But Sir Henrie Martin being one of those who was impeached:[3] upon his sonnes desire was put out as one who did nothing but signe a warrant with others to transmitt Mr. Smart backe againe to Yorke: others moved that the rest that onlie signed the same warrant might have ther names alsoe putt out.[4] This breeding a f. 282a] long dispute, Mr. Selden moved wee might vote the Articles first. and let alone the title of them. When the Speaker went about to frame a question hee found soe much difficultie and uncertaintie in it as hee could not tell what question to pitch upon.

This made mee stand upp and say, That wee now found by experience that the old way was the best, and when wee went out of it, wee found rubbs and stopps, as men usuallie did in unbeaten waies. I therfore wished That wee might first cleare the title which I conceived would not now aske anie long dispute. And then wee might in order according to the usuall forme proceede to the voting of the Articles, for till the title weere past, wee could neither impeach persons, nor declare ther crimes.

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[1] See *Cal. St. P. Dom. 1640-1641*, 283-284, 480-481.

[2] "Mr. Smarts, a prebend at Durham, cause against the archbishop of Canterbury, the bishop of Elie with the rest of the high commissioners of both provinces was this day read. Doctor Cossins and Sir John Lambe beinge two of the commissioners, Mr. Rouse was in the chaire for drawinge up this transmitting to the lords, it is tituled the commons declaracion or impeachment against Doctor Cossins Sir George Ratcliffe, and the rest of the high commissioners of both provinces, with Blanshard the pursuivant." Moore, f. 294.

[3] He was one of the high commissioners.

[4] "Then Sir Henry Anderson moved the like for the bishop of Durham which was granted." Moore, f. 294.

But then other dispute following, it was at last recommitted againe to the former Committee in Mr. Smarts cause, to prepare it for the Howse too morrow. And they weere appointed to meete this afternoone at two of the clocke in the checquer chamber.

Then it was ordered that divers marchants who had brought tabacco from the Barbados and Summer Islands, should have the same out of the Customers hands as Mr. Vassall had.[5]

Sir John Strangwaies moved that a preist latelie deceasing in London a packet of letters was found in his lodging which concerned the Popish Hierarchie heere in England. Then it was long debated whether these Letters should bee read or not in the Howse.[6] And at last it was resolved that the Speaker should take them, and having perused them, make reporte too morrow morning.

This being done wee fell into a long debate whether wee should treate of the raising of monie to send into the North or of the Scottish paper. In the discussing of which alsoe some fell upon the new Irish armie, and the Earle of Straffords triall: and ther arose a little heate upon it, because one hissed; which was saied by divers to bee a verie great abuse; and hee hardlie escaped from being called to the barre.

At last it was ordered wee should presentlie goe about the raising of monie,[7] and that too morrow morning wee should fall upon the debate of the Scotts 8 Article and paper, and the new Irish armie.

And it was likewise declared to bee the sence of the Howse that if the charge against the Earle of Strafford weere readie too morrow morning it should bee first agitated before anie other busines.

This being declared, wee fell againe upon the matter of monie and divers offered as yesterday some to bring in monie and some to bee bound for it.[8]

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[5] "Ordered that the Barbadoes marchants and other marchants of the plantacions from the Summer Islands shall have the same liberty for their tobacco as Mr. Vassall hath." Moore, f. 294. *Cf.* C.J. II, 96.

[6] "Because their was an order that noe new thinge should be taken in for a fortnight." Moore, f. 294.

[7] "Ordered that the house presently enter into consideracion for the supply of monie, and to morrow to debate concerninge the paper sent to us from the lords and then the Irish busines to be next debated to the end they may both be transmitted to the lords together but neither of these are to hinder the Earle of Straffords reporte." *Ibid.*

[8] "Doctor Eden 500£ ready and to be bounde for 500£

"Sir John Hotham	500£
"Sir William Udall read	500£
"Sir William Acton	1000£
"Sir Martin Lumley	1000£
"Sir Harry Martin	1000£
"Sir Robert Pie, Sir [John] Cul[pepper], Sir Edward Hungerford and Sir Edward Hale	4000£
"Mr. Stroude	500£
"Serg. Hide and Mr. Salwey	1000£
"Mr Hide and two more	3000£
"Sir George Dalston and Curran [Sir P. Curwen]	1000£

The names being read I declared my selfe againe as yesterday[9] that I would bee bound for 2000£ soe as I might have my protestation entred to declare that I did it out of meere necessitie in respect of the imminent danger of the kingdome, and that it should not bee drawen into president for the time to come, which I did onlie to preserve the rights of Parliament.[10]

Then after divers had promised to lend or to bee bound the whole of that which had been declared yesterday and to day came to betweene 50 and 60,000£.

Mr. Waller and Sir Henry Anderson shewed that some clergie men had told them that in respect of this great necessitie of the kingdome, they

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"Sir Philip Stapleton	500£	
"Mr. Bellasis	500£	
"Mr. Perpointe	1000£	
"Mr. Cary	1000£	
"My selfe	500£	
"Mr. Upton, Mr. Northcote	500£	
"Sir Ed. Powell	1000£	
"Sir Hugh Cholmelie and Sir William Strickland	1000£	
"Sir William Witherington	2000£	
"Sir William Carnaby and Mr. Fenicke	500£	
"Sir Henry Reinforth	500£	
"Sir Richard Luson Sr., Sir John Corbet	2000£	
"Alderman Hoyle and his partner W. Allanson	500£	ready
"Mr. Goodin	500£	
"Mr. Thelwell ready money	500£	
"Mr. Camdell	500£	
"Lord Mildmay	500£	
"Mr. Speaker	500£	
"Mr. Crew and two more	1000£	
within a fortnight and part bounde	1000£	
"Sir John Efflin	500£	
"Mr. Potts ready	500£	
"Sir Ed. Mountford	500£	
"Sir William Plater	500£	ready
"Sir John Holland	500£	
"Mr. Burgan	500£	
"My lord Munson	1000£	
"Mr. Whitlocke	500£	
"Sir Henry Bellinge	500£	
"Sir Anthony Erby	500£"	

Moore, ff. 294-295.

Harl. 1601 (f. 44) has a smaller list but adds the following:

"Sir John Dryden, Mr. Crew and another (see Moore above) 1000£"

[9] See above, p. 435.

[10] Though D'Ewes makes no further mention of this protestation, he had probably drawn it up and circulated it in the House. Without any comment as to action taken upon it, Moore copied it, with D'Ewes's name at the end, into his journal on the page following his list of lenders, and the indications are that he did it before writing up his notes for March 5. Others besides Moore must have had a copy, for it came finally into the hands of the scrivener who was responsible for *D.O.* He boldly states (45)

and divers other Ecclesiasticall persons would provide an 100,000£ and lend it upon the same securitie that others had offered.[11] Soe it was thought fitt to embrace the motion, and those gentlemen weere desired to deale further in it.

It was ordered that such members of this Howse as should lend monie or give securitie: the same monie should bee first paied out of the fowre f. 283a] subsidies alreadie granted with such damages as had been alreadie allowed to the Cittie of London and Sir John Harrison. It was at first drawen, with these wordes viz. such consideration, but upon my motion the worde Damages was inserted instead of the worde consideration;[12] because I desired not that wee should soe much as give anie countenance to Usurie by inserting that worde.

Then after a motion or two of small moment, betweene twelve and one of the clocke the Howse rose.

Post Meridiem.

Divers of Sir Lewes Dives Committee (to which I was latelie added) mett in the Court of Wardes. Wee had in agitation the election for the knights of the shire for Worstershire: which passed ther Oct. 21, Wednesday, last past. It was proved that before the election one Sir William Russell being a Deputie Leiftenant in Worstershire aforesaied, did by severall speeches at trainings of souldiers; disparage Sir Thomas Littleton

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that the House of Commons "declared," meaning that they took action upon the protestation. But we can hardly think that D'Ewes and C.J. would have failed to record such action. It is simply another illustration of the relations between D'Ewes and the scriveners and of the use they made of documents obtained from members. *Cf.* N. and R. xxviii.

The protestation, as given by Moore, follows:

"Whereas the commons in this present parliament assembled, haveing out of their selves care of the publicke good, and sensible apprehencion of the extreme danger, and imminent perill which threatened this kingdom by reason of great numbers of armed troupes, which lie, and remaine, in some of the northerne parts of the same, have for ther speedy releeveinge of his majesties army, and the said Northerne parts, now beinge in great want, and necessity granted a supply of fower subsidies, and whereas the said commons have beene severally enformed that instant, and sudden releef is to be sent to the said army, and northern parts before the said supply, can be collected, and payed in, and that thereupon diverse members of this house have volentaryly offered to engage themselves, some for 1000£ and some for lesse, untill the fower subsidies soe granted be collected, or another acte be fully passed this house, for the grantinge of two subsidies more, now the said commons in this said parliament assembled beinge desyrous to preserve their liberties and priviledges in such manner, and forme as their predecessors, and ancestors have done before them, doe protest that neither their said grant, nor their said ingagement of themselves by some of their members shall be drawne into precedent against them, or this house, nor be a binding, or leading case to the same house of commons for the tyme to come, and they require that this their declaracion, and protestacion may be entred upon record in the parliament Roll to be returned into the chancery as in like case hath beene formerly used."

[11] "Mr. Waller that a cleargy man toulde hym even nowe yn Westminster hall that some cleargy men woulde geve an 100,000£ presentlye onely they desyre feyrste to make some few propositions to the house." Gawdy, f. 11b.

[12] *Cf.* C.J. II, 96.

(upon whose petition wee mett) that Sir Thomas Littleton had in former Parliaments done noe service for the cuntrie; and that none but a Foole or a knave would give his voice for him. It was alsoe prooved that Mr. Winford the sheriffe saied that Sir Thomas Littleton was fitter to breake Parliaments then to serve in Parliament. The Election was on wednesday October 21, last past, in the Castle yard at Worcester. Three stood to bee knights of the shire, the saied Sir Thomas Littleton, Mr. Serjeant Wilde, and Mr. Salloway: and Mr. Dingle. That before the writt could bee read full out, divers cried a Littleton and soe it continued for neare an howres space: and the vote seemed soe full and cleare for Sir Thomas Littleton as it was generallie conceived that hee had the first voice. Soe as Mr. Salloway himselfe who stood for one of the knights alsoe confessed to one Mr. Talbot that hee never saw a man so clearlie elected as Sir Thomas Littleton: who then being agreed on as many conceived, they called on Mr. Salloway. And when the freeholders thought that the saied two persons should have been declared knights: the saied Mr. Winford the sheriffe (when none knew that Serjeant Wilde was named) and after his undersheriffe Mr. John Bacon had saied, that Sir Thomas Littleton had the first voice cleare: adiourned the countie court without the consent of the Freeholders from the Castle yard into a meadow called Pritch-croft, a mile from the towne which lost Sir Thomas Littleton divers hundred voices, that being [a] cold meadow: and many conceiving ther would bee no further question of Sir Thomas Littleton. Being come to Pritch-croft aforesaied, The course used to take the Poll taken for Mr. Serjeant Wilde and Mr. Salloway was verie uniust and unlawfull. Ther weere many names brought in written in papers some of which weere present and some not: others weere admitted not answearing at all whether they weere freeholders or not: nor ever asked them whether they weere resiant within the Countie or not. And in the same place some fiftie weere polled for Sir Thomas Littleton. About eleven of the clocke in the morning hee adiourned the court againe to the Pallace yard in Worster at two of the clocke in the afternoone: when they mett ther the voices of the citizens of Worster which was made a Countie a°. 19°. Jacobi Regis weere denied though they had lands in the saied countie out of the saied cittie: and then it was asked them if they weere resiants: and many other delaies weere used soe as Sir Thomas Littleton seeing ther was noe iustice to bee had, gave notice to the sheriffe that hee had neither eyes nor eares for him nor would doe him Justice and therfore hee desired all the freeholders who weere for him to depart to ther homes; and hee would seeke Justice in another place. Then another witnes f. 284a] did prove that Sir Thomas Littleton after the criing for the election was ceased did repaire to Mr. Winford the sheriffe and desird him to declare himselfe that hee the saied Sir Thomas had the first voice: who onlie answeared that hee would bee advized. It was proved that Sir

William Russell procured men to write ther names in paper and swore some. These weere the proofes on Sir Thomas Littletons side. The Committee was adiourned to tuesday next at two of the clock in the afternoone. I spake often during the agitation of it.[13]

March 5, Friday, 1640.

Thomas Becke who was to bee naturalized came into the Howse, and tooke the oaths of supremacie and allegiance.

An act for the setling and estating upon the right Honorable the Ladie Elizabeth Countesse Dowager of Exeter her heires and assignes forever the scite of the Hospitall of St. Leonards without the towne of Newarke upon Trent (etc). The title was verie long soe I omitted the rest of it.

Sir John Hotham moved that the souldiers in the Kings armie in the North being many of them runne away and dead; the captaines might onlie bee paied to the time before they died or ranne away: which was seconded by others; and withall it was added to the order, that this paiment should bee made with the privitie and consent of the commissaries of the Countrie.

It was moved alsoe that enquirie might bee made when the saied souldiers died or rann away; and that at least one third parte of three was diminished from the Kings armie, and yet the officers weere still compleate. Soe it was thought fitt that Sir John Hotham and some others should frame upp an order this afternoone to comprehend the same motions.[1]

Then Mr Speaker shewed that the packet of letters which weere delivered him yesterday to peruse weere all sent from yong gentlemen and others meere Irish to ther freinds in Ireland from the Popish seminaries beyond seas, desiring monie to bee sent them with other triviall matters. Mr. Cage spake to it mistaking the matter and supposing they had been English gentlemens sonnes.

I saied that though the Letters conteined but triviall matter yet this good use wee might make of them. That the onlie [way] to bring his Majesties three Kingdomes into a perfect unitie was to consider thoroughlie of reducing Ireland to the profession of the true religion. For they weere the exactest and most earnest papists of all Europe next the Spaniards: they weere indeed Tridentine papists. And wee now saw by these

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[13] For the meeting of the Postmasters Committee this same afternoon, see Verney, 24-26. The committee had been constituted on Feb. 10 (see above, p. 344, and C.J. II, 81-82); it had to do with Mr. Withering's abuses and is once called by Verney (27) "Witherings Committee."

[1] "Ordered that their be an inquiry made at the next muster of the Kings army what soldiers be dead, or runne away since the last muster, and that course be taken that such captaines as have paid any monies for billetinge of souldiers, shall have their monies repaid, and the committee is to take into consideracion the unnecessary chardge of the commanders which remaine as members of this house, and of all such commanders as have but few under their commande. Mr. Hollis, Mr. Cadge, Sir John Hotham, and some more and they are to consider of this dischardging of them." Moore, f. 296.

Letters, that ther obstinacie in the popish Religion did not onlie proceede from the multitude of Preists and Jesuites amongst them, but alsoe from ther training upp of ther children in the Seminaries beyond the seas. It was ordered upon a motion that the Committee for the Popish Hierarchie should meete at one of the clocke this afternoone in the Treasurie chamber.[2]

Upon reading a Letter bearing date the 26 of Febr. 1640, last past sent from Mr. Robert Pockenore deputie Viceadmirall of Cornwall to a gentleman[3] who sent it to the Earle of Northumberland: in which it was conteined that two Turkish Pirate shipps of fowre or five hundred tunne apeice had chased a boate which came from the Isle of Sillie to the verie shoare wheere the boate perished:[4] And therfore hee desired that some speedie f. 285a] course might bee used for the securing of the saied westerne coasts. Divers spake to this and shewed that if a sudden remedie weere not applied not onlie all traffique in those westerne parts would bee hindred, but the verie inhabitants residing neare the shoare would bee in danger in ther bedds and howses. It was therfore wished by all that some of the Kings shipps might speedilie bee sent thither: and by some that in the meane time a competent number of lande-forces might bee appointed to guard the coasts.

Harl. 164, f. 130a] I shewed what speedie course, after I had shewed that land forces would not prevent this.

Then long dispute.

Mr. Selden spake that it was against the law to grant away other mens goods, to prevent mistaking that they might come into England and enter them in the Admiralls Court or else wee might have honest men taken instead of pyrates.

Others opposed Mr. Selden and one proposed that the marchants might putt in securitie to take none but pyrates.

I moved that great caution might bee used because ther would else bee great abuse as the Spaniards and French under couler of taking one another, tooke our shipps. And for them to give bond to take none but pirates as was moved would bee of great hazard to them, because when shipps hang upp false coulers how shall they dare to venter on them. But the safest course will bee for them to bee bound to bring in ther prizes hither and to enter them in the Admiralls Court without paiing anie thing, and to make restitution to anie parties greived.

Divers disliked they should bring ther prizes into England yet none could find out a moore safe way; for wheereas some advized to have the marchants give bond not to take anie but pirates that came all to one issue for then they must answeare in England, and in the Admirals Court if anie complaint bee made.

A vote past that his Majestie should bee moved to sett out 6 shipps for guarding of the coasts.

That his Majestie bee moved that all his Majesties subjects first giving caution not to take anie but pirates and to give notice within two months, of the shipps and prizes taken.

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[2] "2 of the clocke too morrow afternoone." Harl. 164, f. 130a, and so C.J. II, 96. Probably a slip made by D'Ewes when he was making his finished copy the next day.

[3] "Charles Trevilian Basset." Harl. 164, f. 130a. Moore (f. 296) gives the same name and says he was captain of a Scots company.

[4] "Who chaced a ship upon the coast of Cornwell and their sunke her." Moore, f. 296.

Voted, shall have free libertie to take all Turkish Morrish and other pirates, and to convert the shipps and goods to ther owne use without giving anie account to the king or Admirall for the same.

Voted,[5] that his Majestie bee moved that his Majesties subjects may have free libertie to make gunnpowder and to bring in saltpeeter and gunnpowder into the kingdome as well as other marchandize according to the law.

f. 130b] Divers spake to this latter question: and MR EVELING would have iustified that the making of gunnpowder by one man was noe greivance; nor brought anie inconvenience, but onlie the restraining of bringing of it into the kingdome.

MR. WHISTLER and SIR JOHN HOTHAM spake against it and saied it was a greivance and a Monopolie and against the libertie of the subject.

I shewed that though the defence made on the other side (by Mr. Eveling) for one mans making weere of noe great waight, yet I would onlie say in it what I had once before saied in this Howse that this was a greivance and an olde greivance. I knew not whether a Parliament Journall should bee accounted as a Recorde 43 Eliz. etc. by a gentleman of Surrie etc. Soe this last question touching gunpowder was laied aside as supposing it to bee our right.

Then wee fell upon the dispute of Tonnage and Poundage and it was the sence of the Howse that a bill should bee drawen for it but nothing ordered.

Soe after a long dispute it was ordered that it should bee referred backe againe to the Committee of Argiers to consider of a speedie way to sett out 6 shipps for the defence of the coasts, etc. and Sir John Culpepper was added to them.

Then was the order read for the day that wee should first debate the Scottish 8 Article and the paper received from the Lords, and then the Irish armie.

ALDERMAN PENNINGTON shewed the 60,000£ at first promised in the Cittie was now gotten readie.[6] And that for the 12,000£ hee offered yesterday hee assured himselfe it would now bee made 20,000£.[7] Which relation of his was well allowed.

Soe some dispute was that all the monie to bee lent should bee paied to Sir William Udall the Treasurour of the Kings armie, which was to bee sent thither. And that which was to bee sent to the Scottish armie should bee delivered to the Lords Commissioners of England.[8]

Then was the paper read to us twice by the clarke which the Earl of Arundel etc. delivered Mr Treasurour Mar. 3 preceding.

Soe wee fell into dispute about that paper first whether wee should draw the whole in question or onlie the matter of the fortification to bee demolished.

Some would have the whole paper putt to the question, and the Speaker was readie to doe it.

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[5] "And according to the vote of the committee which we formerly voted was resolved upon question." Moore, f. 296.

[6] "That he wil make up the 60,000£ formerlye promysed by the cytty and ytt may be more." Gawdy, f. 12a.

[7] "Alderman Pinnington declared that he had procured 20,000£ more." Moore, f. 296. *D.O.* (45) makes the same statement.

"Alderman Pennington moves that he bringinge in 20 thousand pounde may be payd out of the first 4 subsedyes.

"Ordered that they which shall bringe in ready mony or give security wherby it shall be brought in shall have security out of the first 4 subsedies, they that bringe in their mony first to be first secured." Harl. 1601, f. 44 *verso*.

[8] From the *Journals* (97) it would seem that this dispute led to the order for a meeting of the Committee for the King's Army to meet that afternoon and report the next morning.

But I stood upp and moved that I conceived that not to bee a propper question but that the question wee weere to put was touching the demolishing and slighting of the fortifications about Carlile and Barwicke For that is a busines which came to us from the Lords Commissioners properlie. This other touching that wee should desire the Lords Commissioners and others of Scotland to propose what else they desired to have granted.

Soe divers disputes followed touching what question, at last whether a Committee and that named.

As many as are of opinion that the matter of this paper shall bee committed before anie thing bee voted

213 I's. Mr Hollis and Sir Anthonie Irbie.[9]

107 Noes. Mr Ashburnham Sir Frederick Cornwalldies.

Mr.[10] Stroud a confusion men would not sitt downe to bee tolde etc. [*blurred*] oclocke this afternoone inner starrechamber.

Harl. 162, f. 288a] Post Meridiem.

Divers of the Committee touching the Deputie Leiftenants of which I was sate in the starre-chamber. Wee begann the busines by reason of the late rising of the Howse betweene three and fowre of the clocke in the afternoone. The matter in agitation after two or three petitions of noe great moment read against some Deputie Leiftenants, was touching the proceedings of Sir Henry Hastings, Sir Thomas Hartopp and other Deputie Leiftenants of Leicestershire for matters done by them in 1639 and 1640. They had received ther charge formerlie when I was absent; and this day was appointed them to make ther defence: which first they did in generall that they had done nothing but what they had been commanded to doe: Soe first the copies of his Majesties Letters weere produced which weere sent to the Earle of Huntington by the King himselfe and the Lords of the Counsell. One of the Kings Letters was dated at Westminster 19 Febr. a° 14°. Caroli, in which having saied the Scotts weere in a rebellion, hee commands that the trained bands of Leicestershire should bee 1000 foote and 100 horse compleat to bee readie at 24 howres warning. And by another Letter sent from his Majestie to the Earle of Huntington: and Ferdinando Lorde Hastings his sonne Lords Leiftenants, bearing date Mar. 18 a° 14° Caroli. In which it was alledged, that the Scotts intended to shake offe all Monarchicall goverment and to invade the Kingdome of England, and that therfore 230 men should bee raised in Leicestershire. The Lords of the Councell alsoe sent Letters to the saied Earle bearing date at Whitehall Mar. 15, 1638, by which they directed him to cause 8^{d} per diem to bee allowed each souldier for ther conduct till they came to the rendezvous: and to provide them coates; and conductors. And to raise monie sufficient for this out of the Countie which should bee allowed them againe out of the Exchecquer. April 22, 1639, Instructions weere sent according to the purport of the foresaied Letters from the Lorde Leiftenant to the Deputie Leiftenants of the same shire. After March 29, 1639, the Lords of the Counsels Letters bearing that date weere againe sent to the saied Earle to provide 50 horses and 17 able carters in the same Countie: to send to the Kings armie in the North. The Lorde Leiftenant upon the receit of the saied Letters, sent his Letters to the saied Deputie Leiftenants bearing date in the Covent garden (in London) Aprill 1, 1639, commanding the same. Upon receit of all which severall Letters and instructions within the space of two yeares they did confes they had levied above 3,000£ for coat and conduct monie and for other militarie matters in the same Countie: and had given in an Account for the same.[11] Then followed some dispute about that Account, and exception was taken to it, not onlie in the generall, but to manye particulars of it alsoe. Upon which and other matters of small moment wee spent much debate till about six of the clocke in the evening; which occasioned mee to rise and departe:

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[9] Moore (f. 296) and C.J. (II, 97) make Holles and Irbie tellers for the noes and the other two tellers for the yeas.

[10] These two lines are written in the margin of a page which is very much crowded towards the end. They seem to be D'Ewes's record of what happened after the division. From C.J. (II, 97) and Moore (f. 296) we know that the committee to take the conference into consideration was appointed and instructed. Since we know that the House had held a prolonged session (see below, p. 445), we may perhaps reconstruct from these fragmentary notes what took place. Mr. Stroud tried to make a motion for the committee, but, because of the lateness of the hour, the members returning after the division refused to take their seats and were so restless that D'Ewes could not hear what was going on. Some of the confusion must have arisen over the time of meeting, for Moore gives "3," the *Journals* "five," and the blot in D'Ewes indicates an effort to change the figure first written down.

f. 289a] March 6, Saturday, 1640.

An act[1] for the preventing of divers abuses used in the trade of weaving: read vice.[2]

Mr. Maleure[3] had licence to departe into the Cuntrie for a few daies upon his necessarie occasions.

Sir John Lambe, Doctor of the Civill law came into the Howse being sent for as a delinquent and kneeling at the barre the Speaker badd him stande upp and then tolde him, hee was sent for as a delinquent,[4] because being before appointed to attend the Howse hee had failed. To that hee answeared that hee had attended the first day, and not being called in; hee was necessitated the next day to attend the Queenes busines being her Chancellor,[5] when hee was summoned the second time; which hee did humblie submitt to the Howse. Then the Speaker shewed him that the matter for which hee was first called was because himselfe and Dr. Roane had made an order to charg the inhabitants of Waddesdon in the Countie of Buckingham to pay 15£ yearelie to the maintenance of an organist. The saied order was exemplified: and I veiwing it found that Sir John Lambe was officiall to the Archdeacon of that place; and Dr. William Roane was commissarie to the Bishopp of Lincolne, and that they two did by an act made at Aylesburie 26 Sept. 1638, charge the landholders of the saied parish to pay 15£ per annum to the maintenance of an organist. Sir John Lambe could not denie his owne act;[6] but shewed a paper by which it was certified in December 1635 by the parson, the curate and the Churchwardens of Waddesdon aforesaied, that the organs weere erected and sett upp in the saied Church: wheereupon at last it was thought fitt that they should not remaine useles but that an organist should bee provided. Soe hee being withdrawen it was thought fitt to referre the busines to the consideration of a Committee; and to avoid the trouble of naming a new Committee it was referred to the Committee in Sir Henrie Spillers busines: and Doctor Lambe was discharged out of the Serjeants custodie.

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[11] *Cf. Cal. St. P. Dom. 1638-1639,* 188; *Cal. St. P. Dom. 1640,* 205-206, 603, 629.

[1] Moore came earlier than D'Ewes and gives the following:

"Mr. Madison ["Mannaton," C.J. II, 97] hath leave to goe into the country.

"Mr. Lister had a decree in the starchamber uniustly procured against him, and was fined, and the committee for the Archbishop moved that the leavieing of it should be staid untill this house had determined it." Moore, f. 297.

[2] "Once read." *Ibid.*

[3] Malinaro, according to Moore (f. 297), and Maleurer according to C.J. It should no doubt be Mauleverer.

[4] "The speaker told him that for want of not appeareing he was come into contempt." Moore, f. 297.

Then after awhile debating what busines should next proceede[7] it was at leng[t]h agreed that the Articles against Dr. Cousens and others should bee read and voted.

Soe the Clarke read the title which was voted, and some of the Articles[8] and a little debate arose upon them in which I spake once shortelie.

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[5] "He was to attend at Denmarke house, which was the reason of his not wayting, and he is very sory, and humbly submits." Moore, f. 297.

[6] "Then he was demanded what office he hath in Buckinghamshire, to which he saith the hous officiall, then was asked wherefore he made such an acte to lay soe great a chardge upon the country to which he answeares that he never knew of the settinge up of the organs till 3 yeares after and then the organiste being unpaid he wished the churchwardens to see him paid, and soe made this order, but he saith Doctor Roan was the man that made the first acte, and saith he neither power to sett them up, nor pull them downe." *Ibid.*

[7] "Mr. Henrie Bellasses criss-crosst." Harl. 164, f. 132a. It is not a far guess that what many wanted at this point was the report from the Committee for the King's Army. Then D'Ewes must mean that Bellasses outwitted them by some clever move and so brought in the Cosin impeachment instead.

[8] "That this shall bee the first Article for the maintenance of the Declaration and impeachment of the Commons againste Dr. Cousens and the rest heere named.

"2 article for the maintenance of that declaration and impeachment about the Images of Christ a blue capp

"6 Article omitted for not standing upp at Nicene creed." Harl. 164, f. 132a.

D.O. (46) makes the second article clearer: "Doctor Cozens was voted against, for the causing of 2000£ to be spent in Durham, for the setting up of Images and other devices, and Innovations in the Church, the holy Knife to cut the Communion bread, which was also consecrated, picturing our Saviour with a Golden Beard, and a blew Cap on his head; the which a Scots man seeing, he said he never knew Christ was his Country man before."

And when wee came to that Article,[9] wheere it was charged on Doctor Cousens that hee imploied a glasier and painter knowen papists about the Images of that Church: MR. SELDEN and others thought article fitt to bee putt out: which drew mee to stand upp and say,

That I did not denie but the skill of graving and painting was to bee allowed and approoved not onlie in Christians but in heathens: yet I did conceive this article to carrie great waight in it: because these men did performe that service which a good protestant would not have undertaken; and ther are many secretts in framing popish Images which is not yet knowen amongst us: Besides heere weere the Images of God the Father, and the Trinitie which John de Monluce Bishopp of St. Valence, Espencaeus and other learned papists held not lawfull to bee made. Soe as this act of Doctor Cousens doth serve exceeding well to discover that all his practices tended to the bringing in of supers[ti]tion and Poperie.

Others spake alsoe to it: and at last MR. TREASUROUR saied, That hee did conceive that article fitt to bee left out; but that it was moore fitt that f. 290a] wee should lay aside this busines for this time which was likelie to produce severall debates; and to take into consideration a paper which was delivered to a member of this Howse and which if wee neglected might within 48 houres prove the destruction of the kingdome.

This made us breake offe the busines wee weere then in agitation of; and to putt offe another of great moment after some debate and to fall upon the matter of the paper mentioned:[10] which Sir John Hotham had received yesternight from the Earle of Warwicke. Soe it was delivered to the Clarke and hee read it. The substance of it was: That the Scottish armie was in soe great extreamitie that if 25,000£ weere not instantlie sent away to them, they should bee compelled to advance further. That 50,000£ was due to them 14 dayes since: and 25,000£ moore would bee due to them the 16 day of this instant month. That the Earle of Bristow had often been desired by them to make intimation of the great necessities of the Scottish armie. That hee had often promised monie should bee sent:[11] and therfore they now desired a speedie resolution and supplie for the timelie prevention of all future mischeife. This paper was delivered by the Scottish Commissioners to the Earle of Warwick, and the Earle of Warwicke was desired by the Lords of the Upper Howse to deliver it speedilie to some member of this Howse; the saied Lords having intended yesterday to have communicated it to us in a conference if it had come in time to them. Then it was severallie spoaken unto,[12] and the generall sence of the Howse was that 25,000£ should bee provided with all possible speede to bee sent away to the Scottish armie; but that the first 10,000£ to bee gotten should bee added to the 40,000£ alreadie received by Sir William Udall to bee sent away for the maintenance of the Kings armie. MR. PURFEREY desired that 20,000£ of that 40,000£ might bee sent to the Scotts which remained in Sir William Udals hands which was generallie gainsaied.

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[9] According to C.J. (II, 97) this was the tenth article; eight articles were read and voted, the ninth omitted and the tenth debated but deferred. Moore (f. 297) agrees that eight articles were voted, but says nothing of a ninth being omitted. On the next Tuesday, when this business was again debated, this article is referred to by both D'Ewes and Moore as the ninth. See below, p. 457.

[10] "Then long dispute whether Sir John Hothams paper should bee read or Mr. Hide make report touching Lords paper." Harl. 164, f. 132a.

[11] For the report see L.J. IV, 176-177. Moore's brief summary gives no further points.

Then I stood upp and moved, That wee weere to consider this was noe new busines, but a matter wee had long since had before us, and that I did not soe much wonder that wee heard of the Scotts extremities and necessities now, but that wee heard of them noe sooner.[13] For wee knew that these monies to have been sent weere provided long since when a fatall occasion (viz. the reprivall of John Goodman the Preist) deprived us of them. Wee weere further to consider that wee had ingaged our selves, and the whole kingdome in our persons for the paiments of these monies: soe as if the Scotts should advance into anie new Counties, they weere such as weere ingaged in our vote to satisfie them. I did not conceive they would proceed in a hostile manner to burne and spoile, but onlie to provide monie f. 291a] and food, and yet I desired wee might not compell them to doe that because it might produce sadd and evill effects. I did therfore conceive the gentlemans motion (Mr. Purefey) not [to] bee contemned or disliked, but to bee taken into serious consideration. For certainlie it werre better to take parte of that monie which was readie then to have the kingdome runn such a hazard as it was now likelie to doe. I therfore desired that those worthie members of the Howse who had promised to lend readie monie would instantlie bring it in, and that the 20,000£ promised in the Cittie (viz. by Alderman Pennington) might likewise bee paied to the same end, that soe before anie moore weere paied for the maintenance of the Kings armie the saied 25,000£ might instantlie bee sent away to the Scotts.

MR. TREASUROUR spake next, and though hee had formerlie this morning urged very earnestlie that not a penie of the 50,000£ promised to bee sent to the Kings armie should bee sent to the Scotts, yet hee saied hee approoved what I had moved; and thought it fitt that the 10,000£ parte of the 50,000£ promised to bee sent to the Kings armie should now bee sent to the Scotts, and that 25,000£ of the first monies could bee gotten in should instantlie bee sent away to them.

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[12] "Some thought that the paper came in irregularlie etc. Mr. Treasurour shewed that this paper was moore then an intimacion. The Lords had ordered that it should come to us, and had given it the Earle of Warwicke to deliver it to a member." Harl. 164, f. 132a.

"Thereupon fell a debate whether we should receave this paper or noe because it came in an irregular way, and it was concluded that we should take noe notice of it." Moore, f. 298. *Cf. D.O.* 46.

[13] "It seemes they gave often intimacion to a peere (Earl of Bristow)." Cipher by D'Ewes of his own speech. Harl. 164, f. 132a.

And after a little further dispute it was soe ordered:[14] and that the monies should bee paied in this afternoone to the Earle of Warwicke, at a faire howse neare London Stone formerlie belonging to one Alderman Smith, wheere the Scottish Commissioners lay.

Harl. 164, f. 132a] MR. WHITLOCKE reported that the Committee thought fitt that noe replication should bee putt in in writing to the Earl of Straffords Answeares but to proceed by way of accusation and witnes as in like cases of High Treason.[15]

f. 132b] That the Howse of Commons have considered of the Answeare of the Earle of Strafford and doe averre ther charge of high Treason against him and that hee is guiltie in such manner and forme as hee standeth accused and impeached and that this Howse willbee readie to proove ther charge against him at such convenient time as ther Lordships shall prefix and doe intend to manage the Evidence by members of ther owne, and desire a free Conference with your Lordships by a select Committee of both howses to consider of some proposicions and circumstances concerning the triall.[16]

MR. MARTIN moved that the Committee for the forrest busines might bee appointed to sitt againe on monday next at two of the clocke in the afternoone in the Dutchie chamber, which was ordered accordinglie.

Mr. Serjeants Wilds busines with Sir Henry Harbert which was to bee heard too day was deferred to bee heard peremptorilie on tuesday morning next, and then alsoe Mr. Constantine and Mr. Prideaux ther complaints against the same Sir H. Harbert.

Then it was moved that the saied Sir Henrie Harbert might bee spared in Sir Lewes Dives Committee from the busines of the Election of Worstershire. I shewed hee had been ingenuous etc. yet the larger carried it and it ordered upon the question.

MR. PERCIE made report from the King[17] that the 6 shipps to bee sett out etc. hee was verie readie and willing etc. if wee provided monie which hee wanted and touching the libertie for marchants and others to take Pirates goods etc. his Majestie was graciouslie pleased to grant it but did onlie alter matter of forme in one particular of it of noe moment, viz., without paiing to the King or the Lord Admirall leeaving them freelie to dispose of shipps goods or men to the best advantage, which was soe to bee entred in the Kings owne termes.

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[14] "Whereupon it was ordered that Alderman Pennington should forthwith pay to the Earle of Warwicke 20,000£ and Sir Robert Pie, Sir Ed. Hale, Sir Ed. Hungerford, Sir John Culpepper, Sir Martin Lumley, and Sir Thomas Barrington 5000£ for the Scotts, or els the first monie that shall come in, and the Earle of Warwicke his acquittance shall be sufficient to those that shall pay in their monies." Moore, f. 298. *Cf.* C.J. II, 97.

"Syr Jhon Hotham ys to delyver the paper agayne to my lord of Warwyke and wee to goe on with the monye." Gawdy, f. 12a.

[15] "The committee conceaves it not fitt to put in any replicacion to the Earle of Strafford in writeinge, but to call him to iudgement, and to desyre a free conference with the lords which being voted, it was resolved upon question that we should not reply in writinge.

"Then a message was sent to the lords by Mr. Whitlocke which was as Followeth." Moore, f. 298.

[16] Both D'Ewes and Moore have copied this verbatim from C.J. They agree as to the placing of this business immediately after the order for the relief of the Northern Counties, whereas the *Journals* puts it at the time that Whitelock returned with the Lords' answer.

[17] "Then Mr. Percy made a reporte from the King concerning the setting forth of men of war without letters of mart, and also to have all the benefitt without payinge anything to the King or admirall and to sett forth sixe of his shipps." Moore, f. 298.

Hee alsoe shewed that (the Earl of Northumberland, Lord Admiral) his brother did verie willinglie assent to our desire and was readie to allow his parte etc., and was sorrie hee had not a greater request proposed to him from this Howse in which hee might have shewed his respect to them.

Soe Mr. Peircie was desired to returne the humble thankes of this Howse to the King the Lord Admirall.

Mr. Whitlocke being returned from the Lords brought us ther answeare viz. That they would meete us in a free conference on monday morning by a Select Committee of 24 of ther Lordships.

Soe wee appointed a Committee of 48 to meete them of which I was one.[18]

f. 131a] Then Mr. Hide made reporte that the Committee appointed yesterday to consider of what answeare wee should give the Lords had drawen it in writing which hee presented to the Howse.

Soe the Clarke read it as followeth. Concerning the remooving of the garrisons and demolishing the fortifications of Barwick and Carlile the Howse of Commons concurrs with ther Lordships in ther inclination, that when a firme and setled peace shall bee established all things reciprocallie bee reduced into the termes they weere before the late troubles. To the end therfore that all things may bee setled, that may conduce to a firme peace the Howse of Commons agrees with ther Lordships, that the Commissioners of England doe move the Scottish Commissioners to sett downe all ther particular heads and demands at once together, that soe the 8th article which they are instructed to propound for the confirming and setling of a perfect and speedie peace may with all convenient speede bee concluded. The which being done the Howse of Commons shall willinglie concurre with ther Lordships in the setling of all things that may bee for ther iust satisfaction.[19]

Divers spake to this and some would have had alterations and additions especiallie exception was taken at the conclusion.[20] I stood upp and moved etc. that wee weere still iudges what was iust and safe and soe wished it might passe without further question.

And soe soon after being putt to the vote it did.

Then wee fell againe upon the debate of raising monie and many offered monies or to bee bound for great sumes,[21] soe as I well hoped wee should have great supplie of monie.

Then Sir John Hotham made an unseasonable motion to reverse the order made this morning and that the saied 10,000£ ordered to bee sent to the Scotts might bee

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[18] At this point Gawdy (f. 12b) has the following: "Mr. Maynard, cxxx petitions putt yn att the committe of pryveledges cx of them be hearde xx to heare. He ys att hys owne request dyschardged of the chayre there."

[19] This paragraph D'Ewes probably took directly from C.J., where the wording is the same. Moore did the same thing.

[20] "Mr. Pearde excepteth that the lordes calleth themselves the upper house and as they have entered ytt so yn there booke that wee may enter some thynge yn our booke for the savinge our our owne dygnytye." Gawdy, f. 13b.

[21] "Mr. Capell moveth that xxv men of thys house to joyne with the lord mayor and aldermen of London to take upp 100,000£ which dyd offer themselves to hym most of them there hath xxv consented to be bounde they are to have the 2 last subsydyes for securytye." Gawdy, ff. 13b-14a.

Moore (f. 300) gives the names:

"Mr. Caple 1000£, Sir Arthur Ingram, Sir Alexander Denton, Sir Gerviss Clifton, Sir Robert Py, Mr. Perpointe, Sir Nevell Poole, Sir Edmund Varney, Sir Ralph Hopton, Mr. Rogers, Sir Henry Mildmay, Mr. Dal[s]ton, Sir Christopher Hatton, Sir

sent to the Kings armie: but this after long dispute was contradicted; the former order being made after serious debate and in a full Howse. And soe the Howse rose after one of the clocke.

Harl. 162, f. 294a] March 8, Monday, 1640.

An act for the confirmation of certaine Letters Patents made by the King etc. of the late dissolved Monasterie of Westmalling etc.[1]

Upon Sir John Hothams motion it was ordered that Commissaries of each Countie should bee appointed wheere the horse of the Kings armie lay should bee present at the next muster of them.

It was likewise ordered upon his motion that the number of the Commissaries of Yorkeshire being 16, might bee enlarged to 30,[2] to bee performed by all of them or anie 16 of them.

An act for the disinabling of the clergie to exercize anie temporall or lay office or Commission in his Majesties Courts of Justice within the realme of England and dominion of Wales. Divers spake to it and Mr. Hollis would have had ther voices taken away alsoe in the Lords Howse. This I spake against, and wished wee might proceed with this bill and make it readie to bee passed with the bill of subsidie; and for the other matter it would bee well if wee could have it granted after long debate in this Howse and it would deserve a bill alone. Soe the bill was committed and I was named one of the Committees: and I moved the Committee might meete on wednesday next in the Checquer chamber[3] at two of the clocke in the afternoone.

It was likewise ordered that the Committee in the bill to abolish Idolatrie and superstition was sine die; and that therfore they might meete againe on wednesday next at 2 of the clocke in the checquer Court which was appointed accordinglie, and it was soe ordered.

Sir John Hotham moved that the reformados under the Earle of Craford in the Kings armie weere appointed to disbande Dec. 8 last past.

Harl. 164, f. 133b] Craford eleven daies after disbanded and monie came not that day. Reformadoes to bee paid for eleven daies and first monie to bee paid after monies come in.

Thomas Fanshaw, Sir William Plater, Mr. Pim, Sir John Hotham, Sir Robert Crane, Sir Henry Vane, Lord Dungarman [Dungarvan], Sir Edward Hungerford, Sir John Harrison, Mr. Ofield, Sir Richard Luson, Sir Peter Temple, Mr. Knatsboll, Mr. Drake, Sir Richard Win."

Harl. 1601 (f. 45) adds Dudley North and Mr. Wise, but leaves out Fanshawe, Plater, Crane, Vane, and Hungerford.

[1] "Made by the King . . . to Sir John Rayney Baronett, of the scite of the late dissolved monestary of Westmalling and other lands therein contained under the yearly rent of 200£ accordinge to his majesties agreement therein contained beareing date the 14th March in the second yeare of his majesties raigne." Moore, f. 300.

[2] "Their shall be 30 countrie gentlemen added to the commisaries." *Ibid.*
"16 to 30 or any 16 or them." Harl. 164, f. 133b.

[3] C.J. says that they were to meet in the Dutchy Court.

MR. WHITLOCKE *made report* from Committee etc. 1, a convenient place to bee appointed at the triall of the Earle of Strafford.

f. 181b] The said MR. WHITLOCKE[4] did further report from the said Committee appointed to mannage the Earle of Straffords triall, that there might bee a convenient place appointed for the members who were to mannage the evidence and for the witnesses and for the prisoner and that none els bee suffered to come in.[5]

Secondly that the Members of this Howse would give in evidence of themselves and soe did expect Counsell should not bee allowed to the Earle of Strafford.

Then were these two put to the vote and agreed.

Mr. Speaker mooved to know if hee should bee there; divers thought not. I mooved what had been aunciently done in the Empeachment of Thomas Arundell and De la Poole Duke of Suffolke all by Speaker that wee doe now by Conferences. Soe I thought Speaker should bee there.[6]

But others being provided to mannage it it was at last agreed they should.

Soe the 48 appointed to meet the Lords of which number I was called by name and soe went upp.

The Lords came once out and went in againe and then came out againe and soe wee staied long. The Lords being at last sett Mr. Whitlocke said the same hee had spoken here. But the Lords would at this time give noe answere but send to us about it by messengers of their owne.

As soon as wee were gone the dore was shutt, but the opinion of the Howse after some dispute was that the dore should bee opened and soe it was over ruled and the dore being sett open many went out and came to the Conference.[7]

A petition from a poore Minister was referred to the Bishop of Ely'es Committee.[8]

Widow Palmers petition against some Deputy Leiftenants who were Justices of peace[9] in Leicestershire etc. it was desired that this might bee referred to the Committee for Lord Leiftenants and Deputy Leiftenants.[10]

f. 133a] This held a long debate[11] and many would not have had it referred because it concerned Justices of peace. Others would have it referred etc. I spake that I conceived it fitt to bee referred for soe much as concerned those men who had both offices, because when a person had two capacities and did make use of the one to doe an illegall act and of the other to carry through that against law by an office warranted by law as if a Deputy Leiftenant would force a man to pay conduit monie and for refusall as a Justice of peace binde him etc as some Clergymen Justices have furthered their innovations etc.[12]

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[4] "Then began Mr. Rouse report concerninge Mr. Smarte, and doctor Cossins and others. But Mr. Whitlocke interrupted it, with beginninge with the earle of Straffords reporte." Moore, ff. 300-301.

[5] "That the whole house should be present at the triall of the Leiftenant; and every one may be satisfied with their proofes, and soe either to give their yea or noe, upon his sentence; and that noe man be present at the triall save the lords, and house of commons, together with the witnesses." Moore, f. 301.

[6] "Mr. Speaker demanded to know whether he were to goe with us or noe, and some where [*sic*] of opinion that he must, others that he must not, but some said, that it was fittinge, because if the house upon heareinge of the matter, should be devided and Mr. Speaker, not beinge there, he could not well give his voyce, but it was deferred." *Ibid.*

[7] "And then many of the House would have gone, but some caused the doore to be shutt, whereupon grewe a debate, but at length it was concluded that it was against the order of the house to keepe the dore shutt, where upon it was ordered that the dore should be opened, which accordingly was done, and as many as pleased went forth." *Ibid.*

[8] "Without readinge." Moore, f. 301. "Lynolde, late rector of Heling in the County of Lincoln." C.J. II, 99.

[9] "Abusinge of their place of Justice of peace, as well as of deputy liftenants." Moore, f. 301.

[10] "They are to have power to send for witnesses and writings as may conduce to ther service." *Ibid.*

[11] This material is dated March 6, but obviously belongs at this point after the Widow Palmer's petition on March 8. The passage was transcribed by D'Ewes's assistant, who often made mistakes.

Mr. Capell mooved to send up message about Scottish paper voted.

On Saturday.

Mr. Hollis mooved to have Irish armie to goe up with it: *viz. to desire the disbanding of it.*

Divers spake pro et con *in this particular.*

I said this the greatest cloud now threatneth us from Ireland. *Cato spake often in the Senate to destroy Carthage: and soe should I move this often.*[13] Mooved 9 weeks since 40,000£ paid them this would have furnished the navy at home and what good have they done since. Besides this is noe new thing wee have long since represented it in a Conference etc. and might long since have expected an issue in it. It concerned also the disarming of the papists and wee know of the popish army of the Welch and Marchers. Besides this the readiest way to expedite treaty with the Scotts by remooving this etc. Soe I desire both together (for it was provided for the North parts of Scotland originally) and as the lightning of thunder it might likewise have spread into England.

But at last overruled to send a messenger etc.

Mr. Capel went with the message to desire a free Conference etc.[14]

During his absence wee fell in debate of the mony to bee sent and the Yorkshire gentlemen would have had 10,000£ more etc. but then after long debate there was nothing concluded because Mr. Capel returned and reported the Lords would meet us.

Soe Mr. Hide and the rest of the Committee who drew the answere were appointed to mannage the Conference and went. I went not.

Being returned Mr. Griffith mooved that the Elections being to bee questioned of Carnarvan towne and County Sir Lewes Dives Committee that some might bee added of that County to the Committee[15] to interprett the Welchmen that were to bee witnesses who could not understand English.[16] Divers spake to it, one would have had Southwales men added.

Then Mr. Hide made report that having at their free Conference read the paper the Lords tooke it and there was noe more done.[17]

I immediately after stood up and spake to Mr Griffiths motion and shewed that though I durst not take upon mee to bee an interpreter of the Brittish tongue yet I knew that the Northwales Dialect as being the ancient true Celtique or Brittish tongue

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[12] After the resolution upon Widow Palmer's petition, Moore (f. 301) gives the following: "Mr. Bagshaw hath leave to goe forthwith to plead in the lords house.

"Then Mr. Whitlocke returning the answeare from the conference which was that the lords would send an answeare to this house by messengers of their owne."

[13] "Cato would never come into the senate, but he would say Carthage is yet standinge, soe may I of the Irish armie, for till that armie be disbanded, we can expecte noe safety." *Ibid.*

[14] Moore (f. 301) adds: "In answeare of that free conference which we had concerning the 8 demande of the Scotts presently if it may stand with their conveniency."

[15] "Then was moved that some northe Wales gentlemen should be added." Moore, f. 302.

[16] "Because the rub betwixt Mr. Glin, Mr Thomas, and Mr. Griffith was to be heard, this day, and that many of their witnesses could speake noe English." *Ibid.*

[17] "The Lords returned noe answeare as yet." *Ibid.*

f. 133b] differed much from that of Southwales. And to add members of this Howse as meere interpreters and not give them voices might perhapps cause them to faile at the Committee. Besides it were necessary some of them should by their vote lead the Committee what to doe. Soe I thought fitt to add after a little debate Mr. Walter Lloid and Mr. Vahun meerely added being two Welchmen.

Then it was ordered wee should take up the matter of debate touching the Irish armie and English papists disarming, too morrow morning, at nine of the clocke.

Northren gentlemen againe and some others mooved 10,000£ to make up theirs 50,000£ before 25,000£ to Scotts. Divers spake against it.

I mooved that our order was to stand firm in respect of it selfe for 20,000£ was then expected from that worthy Alderman which wee still desire. 2dly in respect of danger for the hope of mony will stay the Scotts; else send out horse to levy it without breach of treaty and perhapps in Yorkeshire: soe after others spake and nothing altered.[18]

Post Meridiem.[19]

The grand Committee for Religion having expected a while was faine to rise for want of 40 to make a Committee.

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[18] "Ordered that the 20,000£ shall be next paid after their 40,000£, and then every one in order as they bringe in their monies." Moore, f. 302.

[19] Moore records the meeting of the Committee on Dives's business.

"Sir Henry Harbert in the chaire for Mr. Griffith and Mr. William Thomas Munday the 8th March, 1640 Court of Requests.

"Thomas Glin his peticion was reade wherein he conceaves that James Brinker and Mr. Griffith hath done him wronge in the elecion. Soe then it was desyred that Thomas Glin should come to maintaine his peticion, which though Mr. John Glin said he had formerly averred the peticion, though at the last Thomas Glin did averr it.

"Then the peticion from some few of the Inhabitants of Carnarvan, and Conway was read and Sir Henry Harbert beinge in the chaire, keepeing on his hatt when he began to reade Mr. Griffiths peticion Mr. Arundell told him, to the order of the committee, which was that he ought to leave of his hatt when he reade any peticion.

"Then fell a debate whether the certificate produced by Mr. Griffith should be read, or noe, and it was resolved that neither affidavit, nor certificatt is to be reade upon any eleccion, but to appeare personally, and when you certifie, to be in a peticion.

"John Griffith the elder pretendeth himselfe maior for life, sends at aleaven of the clocke for the bayly, and shewed him the mandate and the bayly would have had it to give the burgesses notice which Griffith refused to grante contrary to the statute of 35 H. 8, and that the aldermen of Conway came to protest against that undue eleccion preferred to be made.

"First that rules prescribed by acts of parliament not observed in this eleccion.

"2, A practise to electe Mr. Thomas.

"3. They observed not the tymes, and hours.

"That the burgesses of Conway were not summoned to bee at the eleccion contrary to the statute of 27 H. 8 were being tolde to give wages ought to have notice.

"That Mr. Griffith is maior Burgensium which is onely titular.

"Pearce Griffith saith that the very day Mr. John Griffith receaved the mandate directed from the sheriffe of the county, Mr. Griffith sent for him, and shewed it him, where upon he told him that he would give notice to the out borroughes, then Mr. Griffith said I should not have the mandate to put it upp, and if I would not joyne with him, he would proceede alone.

"The eleccion was the 3 December and it was about tenn aclocke, and then Mr. Griffith proceeded to the eleccion about two aclocke as he was told. Conway 20 miles distant. Pollhelly and other townes 16 miles distant.

"He confesseth that some the burgesses of the out borroughs were there. He also saith that it hath beene the use, to choose the burgesses either the same day the knights were chosen or the day after.

"He saith that the last parliament their was a mandate directed to the baylives and

Harl. 162, f. 298a] March 9, Tuesday, 1640.

An act for the naturalizing of Rombont Jacobson, Leonard Leonards, John Stroud, Andrew Wanley, Valentine Wanley and Peter Rochforte[1] was read 1ª vice.

June 7, a°. 13°.[20] Caroli Commissioners named in the busines of Salt Peeter and have power to imprison.

James Wilford Esquire petitioner

January 1639.

Francis Vincent one of the Deputies for Saltpeeter.

James Crofts and Francis Vincent his servants sett in stocks, for wounding Mr. Wilford.

20 Febr. 1639. Mr. Wilford summoned.

After hee was committed by the now Lord Treasurer Secretary Fane and Secretary Windebanck by a warrant, Febr. last 1639. The 2 Secretaries 3 Mar. 1639, ordered to pay 10£ to the said Francis Vincent and it cost him 5£ before during his imprisonment soe his charge came unto 15£ paid unto.

they sent notice to the burgesses of Carnarvan but whether they had notice or noe he knoweth not.

"Mr. Hooke was the sheriff the last parliament. He saith that the bell is always runge and that the baylie sendeth word to every burgesse. He confesseth he is baylie, and promises to be obedient to the maior and aldermen for the tyme beinge, but the maior gave him noe commande. But denieth that ever the deputy maior came to him from the maior.

"Confesseth Mr. Maior demanded the names of the burgesses to which he denied to deliver them. Confesseth he was demanded the key of the hal, but had it not, and for the seale he denied to deliver it, except the maior parte of the burgesses commanded him.

"The court kept *corum ballivis* and the bayliffes collecte all fines.

"Mr. Glin confesseth that some tymes the maior, and some tyme the baylives have returned the indentures.

"William Hooke Esq. and one of the baylives came in the name of the whole borrough of Conway he beinge an alderman there to demande notice when the eleccion should be, for that and he heard that upon the 3 December their was a mandate delivered to Mr. Griffith, and that he desyred to have sufficient notice, to the end all the burgesses might be their, and it was at the towne hall about tenn aclocke, the same day of the eleccion, and Mr. Griffith made answeare that readinge the mandate upon the eleccion of the knights the day before was notice sufficient. He saith that they had noe notice given at Conway.

"He directed his mandate to the baylives. He confesseth that he laboured to have as many burgesses there as he could.

"11 Ed. I. Made a borrow.

"William Spicer saith that in the tyme that Sir Clement Edmonds was burgesse then the borrough of Connoway paid wages to Carnarvan. Mr. Glin the like. The some was 30£.

"John Bodardo that Mr. Griffith said he was ingaged to Mr. William Thomas.

"John Parry saith that the 3 December he came to the castle of Car[narvon] where he found Mr. John Griffith and diverse others, and heard one Boulton read a mandate, and after readeinge he sawe some 3 or 4 burgesses of Carnarvan but of Polhelly Crikete and other townes many being but lat[e]ly sworne, as he hath hard, and but one Hugh a burgess of Cannoway. He and three or fower more, did crie upon Mr. John Glin and desyred sommons and the pole.

"Mr. Griffith maketh answeare." Moore, ff. 302-304.

For the meeting of the Postmasters Committee on this afternoon, see Verney, 26-27.

[20] This is at a meeting of the Committee for Monopolies. See above, p. 300.

[1] "An act to naturalize Robert Jacobson a dutchman, Leonard Leonards swisher

It was ordered upon motion that all the knights, citizens and burgesses of Norfolke, Suffolke, Cambridgeshire, Huntingtonshire, Norhamtonshire, and Lincolneshire might bee added to Doctor Thompsons Committee touching Salt Marshes.

After another motion of noe great moment Mr. Speaker shewed that one Henry Ruffe (of Pinchbecke in Lincolneshire husbandman) being sent for upp to bee a witnes[2] about the draining of the fenns in Lincolneshire had been threatned if hee came upp to London hee should bee arrested which was done accordinglie and hee now laied in prison for 40s and it was ordered hee should bee freed.[3]

An Act of addition unto two Statutes the one made in the 2d and 3d yeares in the raigne of King Philip and Queene Marie[4] the other in the first yeare of the raigne of our late soveraigne Lorde King James[5] of famous memorie concerning the good goverment of wherrie men and water men using the trade of rowing upon the river of Thames.[6]

Then wee proceeded to read the rest of the Articles for the impeachment of Doctor Cousens. And wee begann at the 9th[7] touching his imploiing a glasier and painter knowen papists about the Images in the cathedrall at Durham. Some would have had it putt out. MR. SELDEN spake to that effect and saied that the imploiing them being not against law hee wished that article might bee whollie omitted.[8]

I stood upp and saied that I thought it fitt this article should stand, and that the imploiing of the saied painter and glasier was against law in the *Totum compositum.* For it was against the statutes of E. 6 and Queene Elizabeth which enacted the removing and abolishing of those Images:[9] and it had been proved to us, that divers of those images which had been then broaken and defaced, weere of late repaired and made compleate. It is true that it doth not appeare that protestant workemen refused to doe those workes; but wee know that there are many able workemen of either

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John Stroude whose father and mother were English, Andrew Wanelley and Valentine his brother, Peter Rotchford borne in Rotcher." Moore, f. 304.

[2] "To the behalfe of the Earl of Linsey." *Ibid.*

[3] "And one Joshua Cust did threaten to arrest him, and accordingly hath done, soe this house hath released him, and hath given order to know whoe arrested him, and who was the cause." *Ibid.*

[4] 2 and 3 Phil. and Mary c. 16. *Stat. of the Realm,* IV, 290-292.

[5] 1 Jac. c. 16. *Stat. of the Realm,* IV, 1034.

[6] This agrees word for word with Moore, leading one to the inference that D'Ewes and Moore copied the title from the act itself upon the clerk's table, as they had done more than once before.

[7] "Then Mr. Rouses report concerninge Mr. Smarts losses against Cossins, and the high commissioners of both provinces, towards the repairinge of his losses which are to be transmitted to the lords beginning at the 9 artickle." Moore, f. 304.

[8] "This 9 artikle was debated whether it should be transmitted or noe, and some sayinge that because it was against a popish painter, and glacier, it was not of validity sufficient." Moore, f. 305.

[9] *Cf.* 1 Eliz. cap. 2. *Stat. of the Realm,* IV, 358.

kinde being of our Religion. Besides I could not tell whether Doctor Cousens did not meane to bring in Heathenisme as well as poperie.[10]

Harl. 164, f. 134a] 10 in maintenance. 11. 12. As many as are of opinion that this shall bee the 9 Article in maintenance of the Commons charge and impeachment. 13, 14, 15, 16, 17, 18 Conclusion. Some things altered in title and conclusion, and added upon question.

Soe it[11]

Harl. 162, f. 298a] Mr. Crew made report that the Committee appointed to consider of the Ministers Remonstrance had commanded him to represent three heads to us touching the greivances in Church matters.

1. That ther *legis latae* and iudiciall power in Parliament ther iudiciall power in the starre-chamber and as Justices of the peace: and ther imploiment in sæcular affaires by the Bishops and the other clergiemen weere against the lawes of God and the Church.

2. Ther sole power viz. of Bishops in ther Ordination and Church censures.

3. The great revenue of Deanes and Chapters, the little use of them; and the great inconveniences that come by them.

f. 299a] Reasons to prove the first are, That ther office is to preach and teach and not to meddle with secular affaires.[12] 2, because they are by this made Judges of propertie of goods and of all other crimes as Judges in the Parliament in the Starre-chamber and as Justices of the Peace. The like may bee saied alsoe of the Councell Table, and all other secular imploiments. 3, By this meanes they come at last whollie to neglect matters of the church contrarie to Acts 6,[13] wheere the Apostles rule is to give themselves to praier and preaching. 4, This is contrarie to the Canons of the Apostles Canone. 5, and to the Counsell of Chalcedon by which they are inhibited to exercize anie temporall office. It is contrarie alsoe to the constitutions of Othobone made in this kingdome; and contrarie to a writt in the Register. And in the booke of ordination made temp. E. 6 they sweare not to meddle with sæcular affaires.[14]

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[10] "But it was answeared that he intendinge to bringe in the popish religion brought these men to drawe the picture of our Savior, which in ancient tyme was the picture of Apollo and soe at length it was resolved upon question to be the 9 article for if a heathen should come into the church and see this picture, he might conceave that we are turned heathens." Moore, f. 305.

[11] "Then the 18th articles and conclusion was read and voted, and soe are to be ingrossed." *Ibid.*

Harl. 1601 (f. 44 *verso*) says 16 articles.

[12] "1, Secular Imployments are noe parte of their office, they are commanded to baptise and preech to all nations.

"2, consideracions. 1, the depth of the scriptures which is their studye and will be their condemnacion if they be not carefull." *Ibid.*

[13] Acts vi, 2-4.

[14] "Their is in the cannons that their should not be a mixture in temporall and spirituall governments. Acts of the Apostles vi Ciprian would have noe presbiter to oversee any civil and alledges Tymothy the 2, Timothy 1 and 6 verse.

The 2d head or greivance was that the Bishops did exercize sole ordination and sole jurisdiction. 1 Tim. 4[15] and 2 Tim. 1,[16] Timothie was ordained by the laiing on the hands of the elders. Soe they are not to have sole ordination.

Matth. 8,[17] sole jurisdiction belongs to the Church, and that cannot bee one Bishop alone. 1 Cor. 5, The Corinthians are commanded to gather together to excomunicate the incestuous person.[18] Ther weere severall examples vouched of Bishops that ordained with ther presbiterie.[19] And in Sir Henrie Spelmans Counsels pag. [*blank*] Ther is a direct canon *Episcopus sine presbiteris clericoque ordinet.*[20] Soe likewise many examples weere brought against sole ordination and ther weere two canons in Sir Henrie Spelmans counsels p. [*blank*] that the Bishop ought not to exercize sole iurisdiction.

To proove the thirde point or greivance hee brought noe reasons because the matter was plaine evident.

Mr. Pledwall a lawyer stood upp and saied hee thought that the Committee had exceeded ther power and intermedled too farre with Episcopacie.[21]

"The Apostles cannons are that a bishop or priest shall not have any civil government.

"not mixt with civill government.

"Noe man that hath entered into orders shall have any government.

"But the dislike or parboyles which hath happened I know not whether by dislike of the cannon law, or sudden comeinge into offices, or the not blessinge of God.

"6 cannon of the first 50 that bishops and priests are all one in the Apostles tyme.

"3 cannon of the 15 sessions of Chalcedon that ministers are not to execute secular affaires." Moore, f. 306.

[15] "4 chapter that they should not despise that gift which was given him by laying on of hands." Moore, f. 307.

[16] "2. Timo. 1 and 6 verse." *Ibid.*

[17] "Mathew 18, 17." *Ibid.*

[18] "Corinthians the 1 and the 5 chapter, 7, 11, 12, 13 verses what have we to doe with those that are without." *Ibid.*

[19] "2 Corinthians a plaine example. 2 C[hapter] 6 verse. John the 20th and 23 . . . For sole ordinacion in the primitive tyme and then cite Ciprian in his fift epistle, when he ordained Aurelius to be a minister he would not doe it alone but gott others to ioyne with him, and that he could not doe otherwise.

"Firmilinius a bishop in the same tyme, and saith that elders and priests have ordinacion.

"A canon of our owne, taken forth of the 4 councell of Carthage, hath the like sole jurisdiction.

"Ignatius saith that a presbiter were worthy ells but councellors to bishops.

"Ciprian said in a matter which required great speede he could not give judgment because many of his priests were away and therefore durst not adventure to give judgment." Moore, ff. 307-308.

"Cipprian would not ordaine Aurelius alone, sayinge he could not do otherwise. Elders have power in ordaining and babtizing, a Cannon of our owne extracted out of the 4th Cannon of Carthage. Presbitery coadiutors to Bishopps, Cannon 45, 47." Harl. 1601, f. 45.

[20] "Episcopus absque Concilio presbiterorum Clericos non ordinet." Spelman, *Concilia* (1639), I, 263.

[21] "The committee had strucken at the roote of Episcopacy which was not referred

Others answered him roundlie in the defence of the Committee that they had not exceeded ther bounds.[22]

A message sent from the Lords by the Master of the Rolls and Mr. Attornie generall interrupted the saied debate: it was delivered by the Master of the Rolls, That the Lords did desire a conference presentlie by a Committee of both Howses in the painted chamber touching a further cessation of armes betweene the two kingdomes, if it might stand with the conveniencie of this Howse.

The saied messengers being withdrawen it was debated whether wee should meete the Lords presentlie or deferre it: and divers spake alsoe touching the Report Mr. Crew had made and after a prettie time of debate it was at last resolved that wee should give them a present meeting.

The messengers being againe called in, The Speaker tolde them, that this Howse would give ther Lordships a meeting as was desired: which messengers being gone, wee named reporters, and went presentlie to a conference.

After wee had staied a good while at last some Lords came out being most of them the Lords Commissioners appointed in the treatie. The Earle of Bristow onlie spake and shewed us three particulars. First that they had delivered to the Scottish Commissioners the resolution of both Howses touching the 8th article of the treatie; which the Scottish Commissioners who tooke the same with great Remonstrances of content and satisfaction. 2, They protested that they did consider the great burthen, that lay upon this kingdome and therfore did most earnestlie desire an end of the treatie.[23] 3, That the cessation of armes and the treatie being now to end the 16 day of this month the Commissioners of both Kingdomes had thought fitt to prolong the treatie for a month longer from that day upon the same termes as before. That the Lordes had in ther Howse approoved of it. And it now onlie rested on us to confirme the same. I was present at the saied conference and stood neare the Earle of Bristow.

Assoon as wee weere returned to our Howse and the Speaker was sett in the chaire wee fell againe upon the matter of Mr. Crewes reporte. And Mr. Pledwall explained himselfe and made some slender satisfaction saiing
f. 300a] hee meant noe hurt. This drew on further debate of that busines but many calling on Mr. Treasurour to make the Report of the Conference, hee stood upp and performed it much to the same effect as I have sett it downe on the page foregoing: onlie hee forgott the second par-

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to this committee, and therefore if the house be pleased he doubts not but their is members within these walles, that will answeare it, but he could rather wish that ministers might answeare it." Moore, f. 308.

[22] "Exception beinge taken for chard[g]ing the committee iniuriously, fell a debate for reparacion for the committee." *Ibid.*

[23] "And that the lords commissioners of Scotland doth take ynto consyderation that the contynuance of these armyes are preiudycyall to bothe the kingdomes." Gawdy, f. 15a.

ticular which concerned the Scotts protestation, which Mr. Perd remembring hee acknowledged hee had forgotten. A little debate ensued upon it and then wee voted that ther should bee a cessation of Armes and a continuance of the treatie betweene the two kingdomes for a month longer from the 16 day of this instant March upon the same termes as before.

Mr. Capel showed that the Mayor and Alderman had refused to ioine with himselfe and those other 24 members of this Howse for the borrowing of 100,000£ upon the securitie of the two next subsidies that weere to bee granted.

Sir Hugh Cholmley moved that wee might take into consideration the disbanding of the new popish armie in Ireland and the disarming of the papists at home.

Mr. Speaker stood upp and desired that wee might not runne from one busines to another but first determine somewhat.

It was therupon after a motion or two moore ordered that wee should deferre the further debate of Mr. Crewes reporte till too morrow morning, and then againe resume it.

A message was sent to the Lords to desire a conference by a Committee of both Howses in the painted chamber presentlie touching the further continuance of the treatie betweene the two kingdomes if it might stand with ther Lordships conveniencie.

After the messengers departure it was ordered upon a motion, that the Committee in the Ministers Remonstrance might have power to send for witnesses.

Harl. 164, f. 134a] Sir William Withrington and Mr. Bellassis are added to the Committee touching the draining of Fenns, of which Committee I was.

Then Serjeant Wildes busines was heard with Sir Henrie Harbert etc.[24] Serjeant Wilde shewed the wordes, and blowes hee received from Sir Henrie Harbert and Mr Salloway witnessed it to bee true. Sir Henrie Harbert beganne to make his defence. Hee was interrupted by the messengers return.

Sir John Holland, who saied the Lorde Keeper had given him an answeare when in truth the Lord Cheife Justice Bankes had done it, and soe the Speaker rectified it for the Lord Keeper was sicke.

Then Sir Henry Harbert brake offe and Mr. Treasurour was appointed to manage the conference and soe went to it presentlie: wheere hee onlie delivered our resolution for the continuance of the cesssation of armes for another month, if the treatie soe long lasted.

Hee returned backe againe soon after. And Sir Henry Harbert went on and shewed that Serjeant Wilde bare him a long grudge about Sir William Russell etc. and then in promoting Sir Thomas Littletons petition about his election for knight of the shire of Worstershire.

That comming into the Court of Wards about the service of the Howse ther Serjeant Wilde falling in communication gave him ill words tolde him hee spake falselie etc. hee telling him hee durst not say soe Serjeant Wilde came upp in an assaulting manner upon him offered to kicke him which made him thrust him away.[25]

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[24] This business had been deferred from Feb. 27 to Mar. 6, and from then to this day.

A great stirre. MR. WILMOT saied it was against the orders of the Howse for the Speaker to plead a cause, etc. Speaker would have vote to bee cleared. I moved that I had been often troubled at the emergent differences of the members but most greived at this etc. That I would not have him putt it to the vote by noe meanes. I did and soe I assured my selfe most cleared him, at least intentionallie.[26]

I moved a quicker way etc. then by referring it Sir Thomas Erpingham as I tooke it in E. 3[27] times.[28]

Harl. 162, f. 303a] Post Meridiem.

The case touching the Election of Worstershire was againe in agitation.

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[25] "To which Sir Henry Harbert replied . . . that he comeing to the court of wards, mett with Sergeant Wilde and Mr. Sallwed. There Sergant Wilde desyred that all asperitie and bitternes, may be laid aside, to which Harbert replied, that he was very willing and with all his hart desyred it.

"Then some other words fell from him. Sergeant Wilde said it was false, and then he replied that if it were not for his place he would scorne to take it, but would have beatten his nose and teeth together and thereupon Wilde offered to kicke him and had he not here with his hand put him backwards, the kicke might very well have broken his leg." Moore, f. 309.

According to C.J. (II, 100) after Wilde and Herbert had each been heard three witnesses were produced on each side. Moore gives two of the witnesses for Wilde: "Webster saith that Harbert said it was false, and Wilde replieinge it was not, then Harbert did strike Wilde, and Wilde kicked him.

"Lieveringe saith the same and that Harbert offered to kicke Wilde."

[26] "Then the Speaker desyred the Justice of the house. Some were for puttinge it to the question and others not, for that they conceaved the Speaker spoke to much and therefore must say noe, and therefore desyred to spare the question, but at length the house desyred the Speaker to looke of the facte, and the house was fully satisfied of the Speakers words." Moore, f. 309.

Then Moore gives the testimony of two witnesses for Herbert:

"For Sir Henry Harbert Mr. Hungerford saith that Wilde said Harbert said falsely, and offeringe to come in an assaulting manner Harbert put his hand forth to keepe Wilde of and then Harbert put his hand forth, as he conceaved to keepe him of him, and said if it were not for his place he would beate his nose and his teeth together and then Wilde offered to kicke Harbert.

"The other witnes said that Wilde tolde him he spoke false thrice over and then offeringe to come by to Harbert, Harbert put him from him, and said that if I had you in another place I would strike your nose and teeth together."

[27] D'Ewes gives only his own part in the debate which followed the testimony of the witnesses. Moore helps out:

"Sir He[nry] Mld[may] stood up and told Cook, and Morisons case which was in a higher nature and after debate the house referred it to stand good, and soe it was never more heard of.

"Then Sir Harbert made a short speech, and gave the house thanks for their justice, and patience in heareing of his witnesses and if the house pleased to give him leave he would nominate Mr. Wilmott, and Sir John Strangeways to arbitrate for him.

"Sergeant Wilde said the like but would not refere it to any save the whole house.

"Case in Ed. 1 tyme Sir Thomas Erpington and another in the like case and the one desyred forgivenes of his words the other of his bloes."

[28] What follows, D'Ewes has crossed out, though why, one can hardly see, since it agrees with the order of the House as given in C.J.

"Sir John Strangwaies and Mr. Wilmot for Sir Henry Harbert and to Mr. Salloway and Mr. Dutton for Serjeant Wilde, to end the busines before monday or backe to the Howse."

The words alledged on [*blank*] last foregoing when this cause was heard to have been spoaken by Sir William Russel and Mr. Winford the sherife in disgrace of Sir Thomas Littleton weere not denied totallie by ther counsell but onlie by an interpretation lenified. For the crie of a Littleton, a Littleton, they confessed that it was true; but replied the place being narrow Sir Thomas Littletons companie gott first in and filled the place, and many of them weere boyes, women and poore people. In other places of the towne ther weere voices for Serjeant Wilde and Mr. Salloway. They confessed onlie that Mr. Bacon the undersheriffe saied that nothing could bee heard but a Littleton; yet added that many whoe soe cried weere not freeholders. It was prooved that Serjeant Wild and Mr. Salloway had many voices in the towne that could not gett into the hill or Castleyarde. That in the Pritch-croft meadow Sir Thomas Littleton assented to have the Poll taken; that the saied Sir Thomas appointed Mr. Broad and Mr. Brumley to see the Polle taken for Mr. Serjeant Wilde and Mr. Salloway: wheere Mr. Bacon the undersheriffe sate. And Mr. Winford himselfe sate to take the Poll for Sir Thomas Littleton, with whose allowance alsoe, Sir Walter Devereux and Sir John Rous sate at the same place to see the saied Polle taken. After the Polle had been ther taken for a time, it was found that the saied meadow was wett and cold, and soe when dinner time drew on about eleven of the clocke, the saied high sheriffe with the saied Sir Thomas Littletons consent alsoe adiourned the saied Countie court into the pallace yard of the Bishop of Worster within the cittie of Worster. About two of the clocke the high sheriffe went thither againe although hee could scarce gett in because Sir Thomas Littletons companie had filled upp the place. And ther alsoe as before in Pritch-croft meadow the same Sir Thomas agreed to have the Poll taken. The saied Mr. Broad and one Mr. Giles weere nominated by him to see the other Polle taken, and Sir Walter Devereux and Sir John Rous sate againe at his Poll. But awhile after the Polle was begunne Sir Thomas Littleton brake it offe, and pretended the sheriffe dealt uniustlie with him; and soe thay departed that came for him hee calling them away: and ther weere in all polled for him about 170. For Serjeant Wilde about 500, and for Mr. Salloway above 600. But the undersheriffe who was present brought not the originall papers in which the saied names weere written at first, but copies; which I spake against and saied wee ought not to admitt a copie but to reiect it, and that as yet wee had noe information of the number of the poll according to law. It was saied alsoe that the place on the castleyard was soe narrow as they could not poll in it; and had alsoe at first adiourned the Countie Court to the pallace yard if they could have gotten leave; but the Bishop of Worster being out of towne; they could have noe answer from him that morning though hee had been sent unto.

March 10, Wednesday, 1640.

Many members being gone out of towne an order was entered iust as I came into the Howse, that noe motion should bee made for anie member to have licence to goe out of towne till nine of the clocke: and that the Howse should bee called this day fortnight.[1] This order was occasioned by reason that licence was obteined this morning for Mr. Midleton and [*blank*] to depart into the cuntrie,[2] the Howse being then verie thinn.

An act to enable the Marquesse of Winchester to grant estates for three lives or one and twentie yeares etc. of lands in the Countie of Southampton etc. reserving the old rents. These two etc. weere in the title which was indorsed on the backside of the bill being ingrossed in parchment: for it came to us from the Lords: it was read 1ª vice.

An act for the naturalisacion of William Wright of London marchant was read 2ᵈᵃ vice and then it was referred to that Committee to which the first bill of naturalizing was committed.[3]

An act for reformation of pluralities and non Residencie,[4] read 1ª vice. Ther was a better bill in the Howse to this purpose[5] which had been once read, viz. An act against pluralities of spirituall promotions. Wheerefore Mr. Rigbie moved that the first bill might bee cast out: and the other retained; and soe the next bill was read 2ᵈᵃ vice being intituled as I have before sett it downe.

f. 304a] Divers spake to this bill most approoving it: I saied that I conceived this to bee an excellent bill, and I was of opinion that the other bill might bee withdrawen and out of it many additions might bee drawen to helpe this other. For the bill first read did allow non Residencie to soe manye qualified persons as might fill upp fowre or five hundred of the best livings of England: one clause I desired might bee added to the bill in respect of the great service of the members of this Howse; that if anie duplicate man who had two benefices of which one of them was in the guift of anie member of this Howse: that living might bee made void, and the saied member to have the new bestowing of it: and I hoped wee should all looke to make good choices.

Harl. 164, f. 134b] Then it was moved by Sir John Hotham that wee might fall upon the debate of Mr. Crewes reporte. Mr Bridgman moved that Doctor Bromrigg a learned divine desired to bee heard before wee proceeded to the debate of these particulars. But Mr. Selden and divers other shewed that for the first head which meerelie concerned saecular imploiments wee needed noe dispute of divines, for sole ordination and Ecclesiasticall Jurisdiction wee might well heare divines. This was at last concluded, and then wee fell upon debate.[6]

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[1] *Cf.* Moore, f. 310.

[2] "Mr. Milleton and my lord Northumberlands stuard." *Ibid.*

[3] Moore adds here: "Mr. Coriton asked leave to goe into the countrie, but the house bade him goe without licence for he was as yet noe member of this house."

[4] "Put in by Mr. Wheeler." *Ibid.*

"And if the viccar be absent above 40 dayes beeinge convicted therof shall forfeit his livinge." Harl. 1601, f. 45 *verso*.

[5] About this bill see Rushworth, IV, 206.

Harl. 162, f. 304a] I begann, That I conceived this matter was not new but that it had been formerlie debated in this Howse or at least by such as constituted this Howse. Wee may gather ex Rotulo Parliamenti de a°. 7° et 8° H. 4° n°. 62°[7] that then it was moved for the clergies revenues to bee restored to the crowne, for they gott a bloudie bill past to make it Lollardrie to speake against the temporalities of the clergie: but wee now know living in the dayes of light that to treate of this matter is not heresie. I saied that the treating of this busines drew mee to the remembrance of that *infaelix saeculum* in which Titio gehennæ that firebrand of hell as the writers of that age called him crept into the papall chaire when the Devill came out of the pitt which terme they gave him alluding to the name of Hildebrand, which was his first name although afterwards called himselfe Gregorie. This Pope Gregorie made those first wicked sanctions by which hee violated the power of princes over the Ecclesiasticall persons in ther dominions. This enforced the princes of Christendome to thinke of some new coercive course to bridle the clergie: and just upon that time came William the first the Norman to attaine the scepter and crowne of England. Hee therfore to subject the principall clergie of the realme to himselfe,

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[6] "Then we came to argue the first head of Mr. Crews report, and Mr. Bridgeman said that their was a reverent divine which desyred liberty to argue the secular Imployment, and we bad him name him, and he named Doctor Brownerigge, but we answeared that if it were in Ecclesiasticall government then we perhaps might give leave, but being concerning civill government we conceave we ought not to heare them to argue.

"The order of the house is if any man speake contrary to the order of the house Mr. Speaker is to interrupt him, and noe member.

"After debate which head, and what parte of the heads should be first taken into debate it was put to the question which was, As many as are of opinion that the first head reported by the committee concerninge the ministers remonstrance shall be first debated say I and resolved upon question.

"Ordered that in recitinge of the first head which is in the 41 leafe we shall begine with the first head of that Remonstrance which is to consider of their legis lative and Judiciall power in parliaments.

"45 Ed. 3. n: 15, The lords and commons shew unto the King that it was the disinherison of the crowne, that clergy men had so longe governed the realme, whereupon it was enacted that noe clergy man should beare any office in the Kings house, nor in any of his councell, and then in the 46 of the said Kinge, the clergy were put forth and one Sir John Knevett was put to be lord Keeper, but the prelates were soe discontent that they haveinge the transcribinge of the statutes would let none be printed though they be upon the parliament roole.

"Then many would have it referred to a grand committee, and others not, whereupon it was put to the question.

"As many as are of opinion that the house shall be devided into a committee say I, but we were of opinion that it should not be turned into a grand committee, and soe we overruled it upon question by many voyces." Moore, ff. 310-311.

[7] *Rot. Parl.*, III, 583-584. A petition of Sir John Tibetot to the King and Parliament assembled requesting a statute for the punishment of those who presented false doctrines.

robbed his crowne of many flowres to enslave his Bishops and Abbots to himselfe; and granted them large revenues out of his crowne to make them Barons. For they had equall preferment, and the Abbot of Westminster sate in the Upper Howse all the first Parliament of Queene Elizabeth, and the Deane of that place holds at this day *per baroniam;* and ought to bee called to the Parliament. It is true that some of the later and moore ignorant monkes doe say that ther Baronies weere made out of ther frankal-
f. 305a] moigne landes: but an honest frier of Bury St. Edmonds Abbey who wrote about King John or H. 3 time sheweth evidentlie that the lands weere given out of the Crowne, and that Baldwin Abbot of Bury had 40 knights fees given him to constitute his Baronie from William the first. The knights fees alsoe of the rest doe appeare in the great Pipe Rolls of H. 2 and the truth is that wheereas the same King did thinke by this meanes to have advanced his power hee weakened it; for the clergie grew soe strong and potent by this meanes as they proved the cheife cause of all the calamities that ensued to the Realme, being able to bring in fortie or fiftie thousand men into the feild, and to waigh downe the scales on which side soever they tooke. I confest I wisht that this question as having the greatest difficultie in it had been last debated for wee must of necessitie fall upon that which is the originall and foundation of ther voices in Parliament which is implied in this part of the first head though it bee not exprest. For as the finall cause is the first in intencion though it bee the last in execution, soe if wee dispute heere to take away ther voices in Parliament wee must likewise dispute of taking that away which gives them that voice, and that is ther Baronies; which is evident enough, seeing on the Close Rolls in verie many places it doth appeare that the verie guardians of the Temporalties of Bishoppwricks weere summoned to Parliament in that respect onlie. The maine question then will bee whether anie thing once consecrated to God or the Devill may bee taken away and otherwise imploied. For *Sacratum* is not moore then *Separatum,* and wee know that the heathens had ther Temples lands and sacrifices all which Constantine the Emperour tooke from them. And I learne from Scaliger (viz. Joseph the sonne of Julius) that upon the sacrifices of God ther never came anie flies, upon the heathens sacrifices they came continuallie, whence came the name of Beelzebub for the God of flies. Now that may bee saied to be *male sacratum* formallie which is given upon a false ground and to an evill end amongst Christians as to deliver soules out of purgatorie, as well as that which is given amongst the Heathens. The Baronies then of the Bishops ought to bee restored to the Crowne, and yet many of them have noe baronies at this day, the lands being gone which weeere ancientlie given them *tenere per baroniam* which forinsicke worde I saied I must use, and impropriations are given in leiw of them. Besides ther are in this howse about fiftie or fortie at the least which are as true barons at this day

as anye of the Bishopps, having those manours and lands which weere ancientlie helde by a baronie. It is true that the greatest difficultie ariseth from hence that the Parliament is a mixt court and handleth as well Ecclesiasticall as civill causes. I therfore concluded that this was a busines of great difficultie and though I durst not advize the Howse what to resolve yet I declared mine owne opinion to bee that the saied Baronies should bee restored to the Crowne.[8]

After this followed a long silence and the Speaker was readie to rise to putt the question, when at last MR. BAGSHAW spake that the Bishops ought not to have voices in Parliament, and that they had onlie voices ther as they weere barons. MR. BRIDGMAN spake that they did not give voices in Parliament meerlie as Barons but as Bishopps alsoe: and soe would not have had ther voices taken away. MR. WHITLOCKE spake next and held that the voices and places of Bishops in Parliament weere originallie by reason of ther baronies.[9]

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[8] "Sir Symond Dewes made a long speech but concluded that he conceaved it fitt that the bishop Barronies should receade to the crowne and they have noe votes in the lords house." Moore, f. 311. This is Moore's summary after an unsuccessful effort to take notes while D'Ewes was speaking. Those notes indicate that the only part of the speech which really interested Moore was that about Beelzebub being called the god of flies.

[9] "Sir Raphe Hopton. If you take away their voice in parliament then they shall be concluded in Ecclesiasticall matters without their consent which noe subiect ought to be by the lawe of the lande.

"Mr. Hide. This priviledge inioyed many hundred of years this noe usurpt right neither the inconveniencie so greate but in better handes it may stande.

"Lord Faulkeland. Since this introduction Ecclesiasticall affaires have bin worse and worse. All pious men are not good legislators they may doe more good in their callinges which requires a whole man. If they have any lande they have voice in choosinge some to this parliament. In 7° of Henry the 8 it was adiuged that parliaments might be holden without Bishopps.

"Mr. Bagshawe. By the common lawe the legislative power in the kinge. The Saxon lawes made by the kinge Lords and Commons. In the 4 of William the Conquerour they had voices by their tennure. Those Abbots that had voice in Parliament weere mitred Abbotts. In H. 8 time they had superiority of voices then they excluded. Bishops sit not as spirituall Judges, 7 R. 2, 12. They were excluded in Qu. Eli. time because they would not consent to a reformation. They weere excluded because by the Cannon lawe they cannot meddle in matters of bloude nor in secular affaires. By the Canons they are to sever from secular men. They may sit there as the Judges to give advice but not to have voice. Juells 57 unto 520.

"Mr. Strode. The bishops partyes in parliament and so can give no clear voice, they live every one in popery or prerogative. it is inconsistent to their Ecclesiasticall power in the House of Lords in parliament. A iudgement reversed because it was given without the consent of the clergy 21 R. 2. They had procurators. In 1 Rich. 3 called one of the 3 estates in Parliament. Many acts of parliament made concerninge the clergy when they weare absent question whether they sitt in parliament as spiritualls.

"Mr. Whitlocke. They sit in parliament in respect of their barronyes only if as spirritualls then all should sit so. Doth not the Bishop of Man at this day. Guardians of spiritualityes came to parliaments in the vacancyes of Bishopps. Before the Conquest Bishops sate in Parliament their beeinge there inconvenient in regard they are not brought upp in temporall affaires if so then not fitt to be Bishops. If they have

Harl. 164, f. 134b] At last Mr. Selden who conceived they weere not summoned *ratione Baroniae,* for not 4 Bishops in England now Barons. But they came by reason of ther Dioces, to Parliament whether Baronies or not. That ancientlie Bishops in Saxon times had voices in making lawes. Hee desired therfore that before wee voted against ther voices, wee would give the clergie some other voices.[10]

Mr. Comptroller and Sir John Culpepper moved to deferre question.

Mr. Hollis to putt question.

Mr. Sollicitor. 7º. H. 8, Resolved by all the Judges that they sitt in Parliament as Barons. They cannot bee ther representativelie because not chosen by suffrages[11]

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resiancyes in burrowes then they have voice in sendinge burgesses. The 3 estates are the kinge Lords and Commons." Harl. 1601, ff. 45 *verso*-46.

"Whereupon some few spoke, that they could not conceave how we can soe soone take that away which soe many hundred yeares they had enioyed.

"Parliaments may be without bishops and have beene. By the common law the lagis lative power is onely in the King. Whereupon Mr. Palmer desyred he might forbeare, and Peard that he might either speake like a parliament man or a gowneman.

"Then he said that till 4 William the first the parliament consisted of lords temporall and the commons. 49 H. 3, 42 abbots and clergy in the parliament and then He. 8 excluded them and the bishops onely sat as temporall barons.

"7 Ri. 2, c. 1, their was noe bishops.

"24 of St. Edmunsbury the like 1. Ed.

"Parliament Rools in queene Eliz. first tyme none gave votes.

"And you all know in blood they have noe voyces.

"6 Ed. 3, in the parliament roole the clergy confesse they can have noe power in secular government." Moore, ff. 311-312.

[10] "Selden saies very few have had barronies this 100 yeares not five bishops that have barronies. 31 H. 8, Peterborough, Oxford, and Glocester have noe barronies, all bishops sate in parliament but noe Abbot but by barronie, as the abbot of Glocester did *in capite* which was a baronie. Every bishop by the lawes past by Ecclesiasticall jurisdiction are to sitt in parliament but as a bishop plainely he cannot.

"This shewes that a bishop sitts by his ecclesiasticall jurisdiction and noe otherwise.

"They sit as representing the body of the clergy in 1, Ri. 2, tyme all the clergy came up, and did give their advice to the bishops." Moore, f. 312.

"Mr. Selden. Which of the Bishops have any barronnyes. Hardly 5 of them this hundred years. In 31 of H. 8 a Bishopricke created, Glouster Peeterburroughe. Every Bishop that hath a Jurisdiction a Diocess ought to sit in Parliament by our lawes nowe in force. 26 H. 8 not by reason of their ordinary but their spirituall Jurisdiction. They are there as representinge the body of the Clergy they advised the Bishopps in matters concerninge the Church. The Lords may passe any bills without the Bishops. Every person in the kingdome ought to have voice in makinge of lawes either immediately or implyed. If they taken away some must be put in their roomes for the Clergy. Every man hath a vote in Parliament by his freehoulde and noe otherwise, not as in any profession. The Clergy choose them not therfore they cannot serve properly for them." Harl. 1601, f. 46.

"In debate of the first vote, Mr. Selden puzzled all the House with a dispute of the right by which Bishops sit in Parliament, and convinced most that they do not sit there *ratione Baroniæ,* in respect of their temporal Baronies, which was the received opinion; but this diverted nothing of the vote." Sir John the younger to Sir J. Coke, March 13 and 14, 1640/41. *Coke MSS.* II, pp. 274-275.

"Master Selden stood up and said, he conceived they neither sate there as temporall Barons, nor as Bishops, but as those who having Diocesian, Spirituall Jurisdiction did represent the whole body of the Clergy. These reasons so swayed the house, that they presently called for the question." *D.O.* 48.

A statement by Selden on this same subject is to be found in his *Table-Talk* (S. G. Singer, 1856), 11-16.

[11] "Noe profession as a profession hath a vote in parliament. Soe of bishops." Moore, f. 312.

etc. clergie appeares by procuratores: they weere onlie *ad consentiendum,* not *ad tractandum.* They have been excluded, and lawes made without them.[12]

Mr. Glinne agreed with the Sollicitor and shewed they came by reason of ther baronies. The clergie are represented in the convocation howse, and cannot bee represented by the Bishops alsoe. Stat. de a°. 21°. H. 8, the recognition was made by the convocation howse as the representative bodie of the clergie. Besides they are not choosen.[13]

Mr Waller would have the vote deferred.

Mr. Pymme shewed that the Bishops weere not representative because they could make proxies: which wee could not because wee weere representatives of counties and townes. 2, The clergie are represented as baronies. The Bishops sitt by one right in the convocation howse and by another right in the Parliament House.

Then that question being propounded ther ensued long dispute about it to little purpose and it was at last altered, though I spake that the worde inconsistent might not bee putt out.

Divers questions weere then proposed as everie mans fancie ledd him to sett them downe.[14]

As manie as are of opinion That the *legis latae* and iudiciall power of Bishops in the House of Peeres in Parliament is an hinderance to the discharge of ther spirituall

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[12] "7. H. 8 they are not for the whole clergy but for themselves onely, for the 2 proxies represent all the clergy. They were *ad conventiendum* but not *tractandum,* in the books of ordinacion they vow to give themselves onely to God." Moore, f. 312.

[13] "Sir John Culpepper. They sit heere in respect of their Jurisdiction not as barons. It is inconvenient their sittinge in Parliament, not inconsistent to their function. It may trenche uppon the priviledge of the Lords house to vote this nowe; not to prepare a bill.

"Sollicitor. They are theere only for themselves, not for the whole clergy. The Clergy appeare by the proxeyes, the Peres vote only for themselves, they weere only to consent, not to handle; they theere as partyes for the Lords to advise with.

"Mr. Glyn. If we take care that every minister shoulde reside in his parrish much more a Bishop in his dioces, who is to have a care for his Churches. The Deane and Chapter of Yorke the Guardian of the spiritualityes for the Archbishop of Yorke the Convocation house are the representative body of the Clergy 7° H. 8 in Kelloweyes Reports 21 H. 8 the recognition made by the Convocation house, not the Bishops." Harl. 1601, f. 46.

[14] "Then was put to the question whether the legis lative and iudiciall power in the lords house in parliament of bishops is inconsistent to their ecclesiasticall function and is an inconvenience to the commonwealth. But this question was staid, and fell to a new debate. Latimer preached before Edward the sixt that was their never anie lord to be lord treasurour but they must have a bishop.

"The great councell of Clarenton in H. 2 tyme that all bishops that hold *in capite,* or *per Barroniam* should be at the councell.

"15 Ed. 2, in the iudgement of Spencer, Blis that they sitt in resp[ect] of their spirituall and temporall liveings.

"Whitlocke differs from them for saith he the bishop of Armoth is noe baron and therefore sitts not in parliament.

"That in vacancy of bishops the gardianes of the spiritualty have beene there.

"I answeare they have been there, but not as to give voyces, but to preserve their dignities.

"And acts of parliament are good without bishops and we know that admit it be bishops right to sitt in parliament yet we know that the commonwealth findinge it a greevance and burthensome to the commonwealth, this house hath power, because it is inconsistent to their spirituall calling and a greevance to the commonwealth and therefore we may take it away.

"1, Spirituall persons and ought to have voyces it is not but their barronies. To function preiudiciall to the Commonwealth, and fitt to beetaken away by a bill and that a bill be drawen to that purpose, which was ordered accordinglie.[15]

Soe it was ordered that the Howse should too morrow at nine of the clocke take into consideration the other two parts of the first head of the Ministers remonstrance.[16]

Harl. 162, f. 307a] Post Meridiem.

Divers of the Committee in Mr. Prinns case of which I was mett in the roome on the right side of the Checquer Court, wheere after Dr. Lambe had been examined touching the articles hee drew against Mr. Prinns man Nathaniel Wickens: Hee confessed hee interlined them, but hee denied that hee either drew them or gave order to have them drawen. Then Mr. Michael Sparkes petition was read who had caused Mr. Prinns booke called *Histrio-mastix* to bee imprinted after Mr. Buckler the Archbishopp Abbots chaplaine had licenced it. It was proved that having soe printed it by licence between 900 and 1000 bookes weere taken from him, hee was sentenced in the starre-chamber to pay 500£ fine and to stande in the pillorie. Hee was six months in prison and paied much monie to pursuivants. It was valued that hee was damnified besides his corporall punishment of standing on the pillorie, by one meanes or other at least 700£. The onlie thing laied to his charge of moment was combination which was never printed. Hee was sentenced 17 die Febr. a° 9° Caroli Regis.[17] Ther was

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this I conclude it is a burden and therefore I give my helpeing hand to the disburdening of them.

"2, That they beinge bredd to be bishops, that then they are not fitt to give votes to make lawes for us, and if otherwise, then not fitt to be bishops.

"The convocacion house and the bishops if they both represent the clergy it is against philosophy, and 2 cannot represent one.

"21 H. 8 the recognizon of the clergy unto the Kinge made by the convocacion house, and not by the bishops in that act their was a resolucion to make canons but it was not the bishops onely butt others to ioyne with them.

"If bishops sit as representative persons then they cannot make proxies as now they doe nor of the diocese at lardge.

"The clergy can give noe voyce in choosinge of knights and burgesses, by reason they are not capable of places themselves and this house hath often ruled it thus.

"Mr. Pim. Bishops sitts not as peares by reason they are not tried as peares but otherwise.

"Though Jonas came into the ship by the Masters consent, yet you know he not doeinge his Master his commande, was to be thrown overbord, soe these bishops if they came in by Christ commande, as I conceave they did not, and not preferring their lords commands are to be extinguished." Moore, ff. 312-313.

"Mr. Pamer. Bishops have no tryall by peres. A convocation may be called when theere is no parliament. The legislative and iuditiall power of Bishops in the Lords house is a greevance and fitt to be removed from the Lords house by a Bill.

"Lord Digby. Matter of conveniency and right. Inconvenient to them there in regard of theere dependancy on the Kinge, a thelogicall and a legall right. For the first he conceives it to hinder them in their callinges he conceives it a breache of priviledge. A lawe may be a greevance. The kinge himselfe has not a compleate but concurrent legislative power." Harl. 1601, ff. 46-46 *verso*.

[15] "Resolved upon question but fowre gainesaying it." Moore, f. 313.

[16] See Nalson's comment (I, 786-787) on the unconstitutionality of this step upon the part of parliament.

[17] *Cf. Documents Relating to the Proceedings against William Prynne*, 16-28.

but 60£ fine paied in parte of the 500£ the rest was still paiable. Soe wee voted that the sentence given against him in the Starre-chamber was against law, that soe much of his fine yet unpaied should bee discharged, and that hee should have reparation of his damages from those who gave that uniust sentence against him.

March 11, Thursday, 1640.

An act for the naturalizing of Daniell Holstein stranger and Alien gentleman[1] was read 2da vice. Soe this and the ensuing bill weere committed to the Committee for natural[ization].

An act for the naturalizing of John Becx[2] gentleman, read 2da vice etc.

An act to abolish all trialls by battaile and ioining of issue by battaile in all writts of Right: was read 2da vice, and committed to a Committee now named: and they weere appointed to meete on Monday next at two of the clocke in the afternoone in the Inner Starre-chamber.

Mr. Reinolds brought in the bill for the abbreviation of Michalmas terme from the Committee shewing that they had not thought it fitt to alter one worde in it; soe it was upon the question ordered to bee ingrossed.

Mr. Rous delivered in the charge and impeachment against Dr. Cousens and others ingrossed in parchment which was read by the clarkes assistant.

Soe it was resolved upon the question that this should bee the impeachment and charge of the Commons thus ingrossed to bee sent upp to the Lords from us.[3]

The Committee for St. Gregories was appointed to sitt at the usuall place to draw upp a title to ther charge too morrow in the afternoone at two of the clocke.

Mr. King moved that divers Englishmen weere taken latelie by Turkish pirates upon the westerne coasts; and wished wee might presentlie take it into consideration. Divers spake to this matter, but at last it was concluded that wee should laie that matter aside[4] and take upp the busines of the day which was the further debate of Mr. Crewes reporte touching the first head of the Ministers remonstrance; wee had yesterday debated ther power of making lawes and giving iudgment in Parliament, and voted against them. Now wee weere in the 2d place to debate ther iudiciall power in the starre-chamber and as they weere Justices of the peace: and 3dlie as they weere privie Counsellors and had lay offices.

Soe the order being read which was yesterday framed to this purpose

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[1] "A pomeorland borne but educated in Oxford, and practiseth phisicke." Moore, f. 313. For more about him see House of Lords MSS., *Hist. MSS. Comn.* IV, 42.

[2] "Becks borne in Collin in Frizland." Moore, f. 313.

[3] For these Articles see Rushworth, IV, 208-210; Nalson, I, 789-790; *D.O.* 52-56.

[4] "Ordered that the busines of Argire shall be taken into debate to morrowe morning and that the Committee for Argire meete this after noone and to send for the victualler and tresuror of the Navy to see if they will advance for this service, till monie come in, and Sir Robert Py is added to this committee." Moore, f. 314.

Mr. Whistler moved that wee might first consider of the statute de a°. 3°. H. 7, Cap. 1, which Mr. Rigbie seconded, and soe it was read in parte and wee observed they had then noe such vast power, and but one Bishop was to bee ther.[5] After others had spoaken Sir Sidney Mountague shewed the Stat. de a° 32° H. 8, Cap. 9 wheere the court is called the Starre-chamber.[6] Then divers spake touching certaine Canons and Constitutions of the Church wheereby the clergie are inhibited to intermeddle with sæcular affaires;[7] and soe the matter was soon drawen to a question. Some would have had the word Archbishops to have been added to the question.

But I spake against it and shewed that they weere conteined under the f. 308a] notion of Bishops and that Ærcebisceop was an old Teutonique worde compounded of ærce which signifies ante and bisceop Episcopus: soe as Archbishopp whatsoever the worde hath gained by usurpation, doth intruth only signifie prioritie of place: and soe the Bishop of Winchester is an ærcebisceop to the Bishop of Elie and therfore I wished the question might onlie have the name of Bishops in it.

One or two moore spake in this busines touching the question, after which the worde Archbishopps was left out according as I had moved, and the question was putt by the Speaker as followeth.

As many as are of opinion that for the Bishops and other clergimen whatsoever to bee in the Commission of the peace or to have anie iudiciall power in the starre-chamber or anye other civill Court is a hinderance to ther spirituall function, preiudiciall to the Commonwealth, fitt to bee taken away by a bill, and that a bill bee drawen to that purpose. Which question was voted affirmativelie with a generall eye and ther did not follow anie one No.

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[5] *Stat. of the Realm,* II, 509.

[6] *Stat. of the Realm,* III, 753.

[7] "Mr. Whistler. By the statute of 3° H. 7 but one Bishop to be present in the Starchamber and he ought not to have voice. The Starchamber auntiently a councell table and the matters therin expressed are all temporall.

"Mr. Bagshawe. The first thinge that excludes them is the 5th Cannon of the Apostles, next imperiall Constitutions 13 R. 2, 7. They had Commissions of the peace first in H. 8 time. 22. H. 8, 9. The Common lawe admitts of noe non-obstante 9 Ed. 4, Winters case, if the kinge commande an imployment that concernes the Commonwealthe if he be a man unfitt or have not bin bred up in wayes that might fit them for that imployment he ought not to be in. Henry 3d time decreed by all the Bishops of England and Irelande that it is a foule and filthy thinge for Clergymen to exercise temporall Jurisdiction. Arundell relinquished the seale out of this respect, the booke of ordination." Harl. 1601, f. 46 *verso.*

"The writt in the register folio 107 it is against the law, for men in holy orders to medle with secular imployment; they answeare but this, that they beinge commanded by the Kinge therefore they ought to be in secular imployment. The cleargy have power that we have not, as not appeareinge at the Assize, to pay noe tundadge, nor to be arreasted duringe his sayinge of service.

"1268 Othobon the popes legate *tempore* H. 3 heald a councell at London of all the Irish and English bishops. We decree it a very haynous and filthy thinge that hands deputed to holy ministerie should be intangled with secular affaires that clearks seeking after earthly and temporall Jurisdiccion, through a fowle, and greedy rapine, doe receave from laymen secular iurisdiccion, and be called justices, and doe minster justice, which they cannot doe without iniury to their ecclesiasticall function.

"Thomas Becket, Thomas Arundell, bishops of Canterbury, and Toston bishop of Eli being lord keeper before they were bishops and then returned the great seale to the Kinge." Moore, ff. 314-315.

The Master of the Rolls and Mr. Attournie generall brought this message from the Lords which the first of them delivered: that ther Lordships did desire a conference presentlie by the Committee formerlie appointed in this Howse in the Earle of Straffords busines[8] with the Committee formerlie appointed by ther Lordships in the painted chamber touching the triall of the saied Earle of Strafforde if it might stande with the conveniencie of this Howse.

Harl. 164, f. 135a] Messengers in againe etc. wee went[9] as in my other paper.

The titles of petitions of the severall Counties, that had putt in against Bishops weere read and the petitions committed to[10]

Being returned I beganne to speake to the Bishops and clergie being privie Counsellors,[11] but then Mr. Whitlocke returning the Howse called for a reporte of the conference etc. Soe I staied and MR. WHITLOCKE reported iust as it is in my paper.[12]

Then all the rest followed[13] as in my paper.

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[8] "Of which I was being 48." Harl. 164, f. 135a.

[9] Moore (f. 315) gives the following passage, which must have come during D'Ewes's absence: "Before a bishop is made this is spoken to him as followeth. That he hopes they have long since clearly determined to give themselves wholy to their vocacions whereunto God hath called them, soe that as much as in them lies they will apply themselves to this one thinge, and draw all their care and study this way, and to this end. To this they answeare they will God beinge their helper. This is the forme in the booke of ordinacion confirmed by an acte of Parliament of Ed. 6 and 8 Elizabeth."

[10] "Our committee for abuses of printinge books ioyned to the archbishops committee." Moore, f. 316.

"The Committy for the ministers remonstrance." Harl. 1601, f. 46 *verso*.

[11] "Then we came to the third parte of the first head, which was their imployment as privie councellors, and in other temporall offices." *Ibid.*

[12] The paper referred to gives the report as follows: "Earle of Manchester. Paper. Conference touching [*margin torn*]. 1. Convenient place for triall. Triall etc. verbatim[?]. 2. To manage the evidence it selfe. The white chamber an ill floure. The upper howse barre upp higher. 2. Roome for both howses not as a howse but as members of howse. 3. Managing onlie as marshalling. 4. When place or presidents for persons to bee ther. 5. In matter of fact noe Counsell. Matters of law counsell and if ther arise anie doubt in law. 6. To give our votes for demanding of iudgment.

"Mr. Whitelocke shewed what hee demanded was not to give a vote in or at the iudgment. Mr. Pymme shewed messengers of our owne after our advize taken in howse of Commons concerning these doubts moved." Harl. 165, f. 69.

[13] "After our returne to the howse the Speaker moved to goe on with busines of Mr. Crewes Report. I beganne etc. but then Mr. Whithocks reporte etc. Mr. Pymme spake to it at large. I moved to deferre it or speake to it.

"Soe then I spake at large to [*margin torn*] Mr. Sollicitor and divers others spake and all agreed with mee that the last point was most materiall. After long agitation it was at last ordered (as I had at first proposed) that wee might deferre the further debate of this busines till too morrow morning, and that this afternoone the Earle of Straffords committee and some others of which number I was should meete in the Treasurie Chamber at two of the clocke to consider of presidents and to prepare reasons to present to the Howse too morrow morning." *Ibid.*

"Then we fell into debate of the place some said Westminster hall was the fittest

f. 135a]

Post Meridiem.

Divers of the Committee appointed to consider of all the matter of the saied conference of which I was mett in the Treasurie chamber wheere wee debated long touching our being present as a Howse or as singular members of our Howse: and wee

place because the white chamber otherwise the court of request is forth of order, and that we cannot be there without danger though that was the ancients place, and whereas the lords conceaved their house the fittest and we conceaved that the unfittest place.

"Their were many that would have had us to goe up presently with a message. But Mr. Sollicitor said it was a thinge of extraordinary Importance, for he conceaved that if we lett it now passe as the lords would have it, we shall loose all our liberties and sitt here for noething but to give subsidies.

"Latimers case To Ed. 3 that the Judgement was given by the lords spiritual and temporal *in pleno parliamento* and then beinge found guilty, the commons then presently desyred iudgement and especially to put him forth of a privy councellor.

"Nevilles case in 50 Ed. 3, then 5 H. 4 Northumberlands case, the Kinge, the lords and commons were together.

"Latimer was pardoned, and in the pardon their was read *coram magnatibus et communitate* that he was condemned.

"To come as a house first to informe our confreares how to desyre iudgement.

"2, the lords reserve to themselves the power of allowing him councell, and if their should be a debate, then they must be forced to goe into their house, and whatever the view of this is I leav.

"4 Ed. 3. Their beinge a difference betwixt the bishops, and the temporall lords and commons, that the bishops went one way, and the temporall lords and commons an other way, this shewes they sate together, and the Lords Speaker was Speaker for both houses.

"It behooves this house to be carefull concerninge the order made in the Earle of Middlesex case, for assigninge councell, and now done to Strafford which is contrary to law, and if we doe not take course they may bring in an arbitrarie goverment and soe we shall be all ruined, for you may see how the commons are accused before the lords without the commons consent.

"Ordered that the gentlemen of the long robes shall meete this afternoone to consider how to draw up heads for to defend our rights and priviledges, and Sir John Wray produceinge some records is added to the committee: Treasury chamber 2 oclock and to reporte it to morrow." Moore, ff. 317-318.

"Sir Symons Duce. Some records mention thinges donne upoon the Judgment of the Lords and Commons, this house not present neither at the tryall nor Judgment of Michaell De la Poole. We may not admitt that distinction of matters of lawe and matter of facte. It concearnes the vitals of this Commonwealthe. The Commons ever called up to heare what the answer was. This answer satisfyes not our demande. In matters of meere facte he shall not have counsell. The party that prosecutes is ever present in all Courtes. The House may appointe whom they will to mannage this busines. Thinges have bin donne in pleno parliament and why not. The Commons theare as a house as well as the Lords. Theare may be matter of lawe at one time and then matter of facte another time which must nowe cause great confusion. This latter parte was spoken by Mr. Sollicitor. The Commons should have bin present when Lord Strafforde put in his answer. We cannot demande iudgment until we knowe the party be guilty. Lord Latimers case.

"Lord Digby. Necessary to be theare as a house beeinge to informe our consciences, to be theare both as one house wheare the Speaker is to be only as a private member, the Speaker of that house to be Speaker for both. The Lords founde their proceedinges uppon their owne ord[er]es. If they may make accion to binde us they may make lawes without us. If the Lords have power to doe that which the lawe directs not, we see commoners iudged every day without commoners. He should have councell noe further then the lawe doth allowe. What is lawe and not matter of lawe the Lords reserve to themselves." Harl. 1601, ff. 46 *verso*-47.

agreed to accept the Lords offer as being present as particular members. Divers presidents weere vouched but most of them nothing to the purpose wheerefore I omitt them.

Then wee fell upon the debate of the Earl of Strafford having counsell for matter of law but not for matter of fact. Mr. Pymme moved wee might admitt the distinction, and that hee thought the counsell should not speake. But I answeared that noe admitting of that distinction, but if by perswasion and reason wee could not prevaile then to protest against it, and soe being neare six of the clocke I came away.[14]

Harl. 162, f. 311a] March 12, Friday, 1640.

A motion was made for a subcommittee made out of the Committee of greivances to bee made a Committee of the Howse: but divers spake against it: and soe being putt to the question it was dashed.

An act for the setling and estating upon the right Honourable the Lady Elizabeth Countesse dowager of Exeter her heires and assignes for ever the scite of the hospitall of St. Leonards without the towne of Newarke upon Trent in the Countie of Nottingham (etc. The title was verie long soe

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[14] Another committee meeting this afternoon is reported by Moore (ff. 318-319):

"Thursday the 11th of March in the Court of Requests, Sir Henry Harbert in the chaire. For Mr. Griffith, Mr. Thomas, and Mr. Glin, case for Carnarvan Eleccion.

"Edw. Holland of Connoway saith that he was the 4 of the Dec. in Carn[arvan] and he saith that they are to give notice by proclamation or otherwise by the statute. William Badardo told him that he had brought downe the writt for the eleccion and told him upon friday before the eleccion neare Conway, and he told all his friends of it, and all the burgesses of Conoway. And he saith that Mr. William Hacks gave them notice. He saith that their is 30 burgesses in Conway and 17 were there. He saith they never had notice, but by friends which intreated them to be, and that noe notice is given but that which is for the Knights.

"William Spicer saith 16, 17 burgesses of Con[way] at the eleccion of the burgesses at Carnar[van] whether they had notice or noe he knoweth not. He saith that he was at one eleccion and then there was noe notice given to the outborrough for he was deputy maior and then the burges was first chosen but how long he knoweth not. The deputy maior gave notice at the eleccion. He saw the mandate upon wednesday 2 De. notice to the officers upon Thursday, beinge 8 to be at the eleccion and this was at 7 oclocke and they answered they could not come. And all those of Connoway he sent notice unto, by the maiors commande, and he saith their never any notice given but the same that the Knights had, and that there were five or sixte which were there but gave noe voyces.

"Richard Thomas had warninge the day before the eleccion from the maior. He saith their are 50 burgesses, he saith he gave notice to all the burgesses except the officers the night before, and the next morninge. Sawe the officers and those that he did not see he left notice at their houses, that the next day the eleccion should be for burgesses for parliament and to give their voyces to whom they pleased.

"Hugh Barges bayly of Conoway saith he had the usual notice which was accustomed to be given, he saith there were 15 or 17 of Connoway gave their voyces for Mr. Thomas and some 4 or 6 stoode [?] neare [?] in towne and saith their are some 28 or thereabouts and he saith that there were 8 or 10 more burgesses of Connoway at the eleccion of the knights the day before the eleccion of burgesses and did know that the eleccion for burgeses for Carnarvan was the day after. He saith that none of Connoway did complaine.

"Mr. Hooke saith that their is 40 burgesses or thereabouts. Mr. Hooke confesseth their was never notice given to the burgesses of Connoway. He saith he demanded notice more now, then at another time because he was ingaged for an other and not

I omitted the rest.) Then it was after two or three had spoaken shortelie to it, committed,[1] and the Committee was appointed to meete this afternoone at two of the clocke in the starre-chamber.

Upon Sir John Strangwaies motion the hearing of Sir Henrie Harberts difference and quarrell with Searjeant Wilde was putt offe till Monday come sennight.

Mr. Rigbie made report of Mr. Burtons being suspended by Dr. Worrall, Dr. Sams, Dr. Duck, and Dr. Wood *ab officio et beneficio,* with the breaking uppe his howse by a Serjeant by vertue of a warrant from divers Privie Councellors and the seizing of his bookes and papers by John Wragg a pursuivant by vertue of a generall warrant dormant from severall Privie Councellors: how hee was afterwards made close prisoner[2] with other circumstances as I have before sett downe at large. Soe the Howse voted as wee had before done in the Committee of which I was that the same suspension, breaking upp his howse, taking away his bookes and imprisoning his person weere against the law and the libertie of the subject. Then it was voted that Mr. Burton ought to have reparation and satisfaction for his suspension *ab officio et beneficio* from Dr. Sams, Dr. Ducke and Dr. Wood. Ther was noe question putt of Dr. Worrall because he was dead. Then it appeared that Serjeant Denbie[3] and Alderman Abel brake open Mr. Burtons howse upon a warrant from the Counsell table: and soe it was severallie debated from whome reparation should bee made.[4]

I shewed: That after Mr. Burtons suspension *ab officio et beneficio* John Wragg had a warrant from the High Commissioners to seize his person but durst not breake open his doore; but had assaied by all secrett meanes to

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for Mr. William Thomas. He denieth that he demanded notice after the readinge of the mandate. He saith he sent backe 8 burgesses.

"Barges saith that Hooke sent a weeke before to him to give his voyce with him.

"Boulton saith that Hooke after the readeinge of the mandate, and the Pole demanded by one Parry, for Mr. Glin desyred Mr. Griffith to give tyme that notice might be given to Connoway, and Mr. Griffith said the burgesses of Connoway were there. There were but three that demanded the poole for Mr. Glin which was granted, but they went their way without poleinge.

"Spiser saith their were never 200 of William Thomas side.

"It is voted That Mr. Thomas his eleccion for Carmarvan is voyde."

[1] "But some must speak against it, and then it was voted to be committed." Moore, f. 320.

[2] "Mr. Rigbies report concerninge Mr. Burton whoe appeareinge before Doctor Duck they tendered him an oath three tymes Doctor Warral Doctor Wood, and Doctor Sandes and then they bound him to appeare before the high commission, then they suspend him of his benefice worth 76£ per annum and also of a lecture worth 30£ per annum. They committ him to a constable, and then a messsenger by a warrant dormant breake his study open, and takes away all his books, then they make a new warrant from the high commission, and councell table and then they comitt him to the Fleete." Moore, f. 320.

[3] Dendy, according to C.J.

[4] "That Serjeant Denby and Alderman Abell ought to make reparacion to Mr. Burton for breaking open his house without warrant and resolved upon question." Moore, f. 320.

gett in: once he counterfeited himselfe to bee one of Mr. Burtons freinds assuming his name; but Mr. Burtons maid knew his voice, and tolde him shee knew him to bee the knave Wragg. Then they gott a warrant made by divers privie Councellors to Serjeant Denbie aforesaied to bring Mr. Burton before them, but there was not a worde in it that they should breake open his howse. Therefore Alderman Abel and the saied Serjeant weer onlie in fault for breaking open the saied howse without anie warrant.

Which declaration the Howse well approoved; and soe after some further debate in which most agreed with mee that the saied Alderman Abel and Serjeant Denbie weere onlie in fault, whether the warrant it selfe weere legall or not: and soe it was at last voted upon the question that those two weere culpable and should make reparation for breaking his saied howse. It was alsoe voted that John Wragg should make reparation for seizing his bookes.

Then was the second warrant read under the hand of divers privie Counsellors dated at Whitehall 2 Febr. 1636 by which Mr. Burton was committed close prisoner to the Fleete, without anie cause shewed in the same warrant.[5]

Sir Robert Harlow spake shortlie to that warrant; condemning it. After which I spake and saied, That this warrant went in such a broad f. 312a] way against the law it selfe and the fundamentall rights of the subjects of England as ther needed noe long debate in it; nor reference of it backe againe to the Committee (for some had moved that both warrants should bee referred backe to it) but wee might speedilie determine it. This had been fullie disputed in 3° Caroli and then it was agreed to bee against law: for else we weere in worse case then the villaines of England ancientlie weere whose Lordes could not imprison them without a cause shewen. Besides this close imprisonment was most illegall; for wheereas the law provides a remedie by an Habeas corpus against a wrong imprisonment; heere being debarred the use of counsell and freinds, hee was debarred of that verie remedie which the law requires, and of the meanes to attaine it. Soe after some others had spoaken to it; the saied warrant as I had advized was upon the question voted to bee illegall and against the libertie of the subject.[6]

Then it was awhile disputed whether wee should vote that hee should have reparation of those privie counsellors who had signed the saied warrant or not. But at last it was first voted hee should [have] reparation for his saied close imprisonment; and 2^{dly} from the saied Lords; of which the Archbishop of Canterburie and the Bishop of London weere two.[7]

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[5] A list of various processes issued against Henry Burton, clerk, rector of St. Matthew, up to Jan. 13, 1636/37, consisting of an attachment against him issued 16 Dec., 1636, and an intimation of his suspension from office and benefice is printed in *Cal. St. P. Dom. 1636-1637*, 360.

[6] For the resolution see C.J. II, 102.

[7] For the others see C.J. II, 102.

A message from the Lords had staied a prettie whiles without during this last debate: soe the messengers being Serjeant Ayliffe and Dr. Bennet[8] a Master of the Requests came in. And the message was delivered by Serjeant Ayliffe which was that the Lords did desire a conference presentlie by a Committee of both Howses in the painted chamber touching the Northren armie, if it might stande with the conveniencie of this Howse.

The messengers being withdrawen wee resolved to give them a speedie meeting which the Speaker declared to them being againe called in.

After ther departure the Howse having named Reporters,[9] manye of the members went to the conference: but I went not but understood from the reporte of it which was made the next morning (viz. on Saturday March 13 ensuing)

That after the Lords weere sett, The Earle of Bristow shewed that notwithstanding the Kings great care for the well ordering of his armie, yet ther needed some speedie course to bee taken for the well regulating of the same: and that therfore ther Lordships thought fitt, that discipline might be exercized amongst them, and yet to bee practiced in such a manner as should neither trench upon the law of the land or the petition of right.[10]

Assoon as the conference was ended and the Howse sett Mr. Whitlocke made reporte from the Committee appointed yesterday in the afternoone to take into consideration the Lords answeares touching our demands about sundrie circumstances considerable in the Earle of Straffords triall (of which Committee I was.)

First hee shewed that wheereas the Lords had offered to remove the barre of ther Howse higher and to scaffold the lower part of it for the members of the Howse of Commons:[11] The Committee had thought it fitt to answear that though ther Lordships should soe doe yet ther would not bee roome convenient. And that therefore wee should desire ther Lordships to appoint some other place that might bee moore convenient. For a°. 1°. R. 2,[12] The Lords sate in the Blanch Chamber in Gomines case. (which is now the Court of Requests.) and the Parliament is summoned to appeare at his Majesties pallace of Westminster; soe as if one roome bee too strait they may appoint a more convenient. Soe the Howse voted this.

2. To the 2^d^ demand of ther Lordships whether wee would come as an entire Howse or as particular members of the Howse of Commons: The Committee had framed this answeare, That seeing the Earle of Strafford was impeached by the Howse of Commons it was in ther choice and

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[8] C.J. says Dr. Mason, but L.J. (IV, 182) agrees with D'Ewes.

[9] See C.J. II, 103; also Moore, f. 321.

[10] See C.J. II, 103-104.

[11] See the report of the free conference immediately preceding this one, in which the Lords' objections and suggestions are given. C.J. II, 101-102.

[12] *Rot. Parl.* III, 10-12.

appointment to come in what nature or forme they pleased either as a whole Howse or otherwise. But it [*blank*]

Harl. 164, f. 135a] To this some spake and would have had us to have gone as a Howse; but others spake to the contrarie; and soe it was voted as the first.

3, onlie to Marshall evidence, by our owne members, by managing, ordering aplying and enforcing the evidence.[13]

4, For allowance of Counsell wee cannot admitt anie distinction in matters of meere fact and law: but that hee ought not at all to have counsell: and touching what is matter of fact and matter of law, ther Lordships will reserve the determination of that to themselves, The Commons saving to themselves ther right in law and course of Parliament desire ther Lordships to explaine whether they will allow the Earl of Straffords Counsell to interpose at the triall or onlie to advize in matter of law after the triall is past and before iudgment; for if they shall interpose before the whole evidence bee runn thorough the Howse of Commons members must give over etc.

4, For the matter of allowance of Counsell Mr. Perepoint spake not to allow this distinction nor anie counsell etc.

Mr. Whitlocke answeared that disputed at Committee and that in Kings bench counsell in arrest of iudgment; and if the Lords will allow counsell after all finisht.[14] f. 135b] Attended Committee yesternight till neare six Upon debate I was of the same opinion as now, *Lites ex litibus, et moram ex mora nova,* That I did not conceive it to bee permitted the distinction nor the reservation etc. for that of inferior Courts it differed etc. Judges heere of Counsell Duke of Norfolk etc. nor did I conceive but the Lords meant to have counsell present etc. Ther is a case in which counsell as in Sir William Cogans case, hee was in 5°. R. 2,[15] denied Counsell, but wished to advize with his freinds. Soe may the Earl of Strafford after the triall past before iudgment his freinds may advize etc.: let those freinds bee of counsell or not counsell. Besides for the saiing they reserve the matter of fact and law, not allow it etc. tis true two capacities as Jurors and Judges Jurors as matters of fact to iudge of validitie of witnesses as the iurie etc. And then they are Judges etc. law etc. but then, to advize with Judges etc. nay in matters of difficultie as in case of Great Chamberlaine of England, etc. Besides in the case of Thorpe the Speaker of the Parliament etc. *Temp.* H. 6, I remember not Rolle nor yeare, etc. whether in Analogie etc. Soe much argument on either side after I had spoaken. And most grounded ther opinion of noe counsell on that reason of the Judges, etc. Mr. Sollicitor spake to it and thought by voting wee should bind upp our selves etc.

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[13] For the formal wording of the first three heads see C.J. II, 103.

[14] "Not fitt for the members of our house to interpose with Councell. If the Lords can allter a lawe they can make a lawe. If they be sole iudges what is matter of lawe and what is matter of facte. Matter of meere facte Lord Strafford shall not have councell. In matters of lawe he may have councell as is in all Courts. Duringe the time of our giving of our evidence his councell ought not to speake. A difference betweene a tryall in a iuditiall court and in parliament and of a peere and another man. Lovells case in R. 2. Councell is allowed heere to satisfy the consciences of the Courte, not in favour of the party. This the time to oppose any thinge that the Lords shall doe against lawe. In mixt busines we may suspect they will allowe councell; if so this is against lawe. We must withdrawe if matter of lawe come to be debated. On[e] accused of highe treason ought not to have councell to penne his answer. The Lords to declare the time when they will admitte of councell. Disadvantageous to us to have councell heard afterwarde and none by to reply. The Lords have the Judgges to informe theire Consciences. An order in the Lords House that all in capitall crimes shall have iudgment made, 7° King James." Harl. 1601, ff. 47-47 *verso.*

[15] *Rot. Parl.* III, 105-106.

Soe at last the question was putt by and wee voted that the saied 4 matter touching Counsell [be] recommitted to the same Committee and what those have incurred who weere of Counsell with the Earle of Strafford.[16] To meete againe in the Treasurie chamber at two of the clocke this afternoone.

Harl. 162, f. 315a] Post Meridiem.

The Committee for Sir Lewes Dives sate manye of them in the Court of request[17] of which I was. Ther a petition was read proferred by divers of the Countie of Bedford against Mr. Sare and Mr. Fountaine for reporting that Sir Lewes Dives concealed the writt for the second election; and that one Barnes and Ruddier had reported hee was a papist both which did much hinder voices at his election.[18] It was proved that both the saied last persons made the saied reporte: and for Mr. Sayer and Mr. Fountaine they weere readie to iustifie what they had saied. Ther counsell therfore shewed that they had petitioned against Sir Lewes Dives with divers others of the Countie. That Dec. 14, Monday last past should have been the election for the Countie of Bedford that Sir Lewes Dives or his agents gott the writt on friday next before the saied day of election and kept the same till the saied day of election was past to the great abuse of the Countie who most of them mett upon the saied monday Dec. 14, at Bedford. Sir Lewes Dives confessed all this, but the matter of the election it selfe in which Mr. Roger Burgoyne was elected and returned was not all questioned: but these weere petitions onlie of recrimination, and soe at last all parties weere contented to let ther petitions and recriminations fall. I saied I would not hinder soe reasonable a motion as to settle peace and quiet; but I conceived that Sir Lewes Dives offence was of an high nature and that which tended to the destruction of all free and iust elections. For the law had provided publike officers to carrie the writts to the sheriffes; and if private men may gett the saied writts into ther hands they may steale an election when they please. Besides Sir Lewes Dives leaving the writt at London after hee had taken it out was an high offence; for hee ought to have delivered it to the sheriffe; though hee could not possiblie have done it before the Sunday night next preceding the day of election, or on the verie morning it selfe of the election. Soe I wished that this might bee the last example of this kinde and bee a warning to others. Soe after a little further dispute it being neare seven of the clocke at night, wee rose.[19]

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[16] Gawdy (f. 18b) makes this point clearer:

"Mr. Strowde to proceede agaynst the councell of my lord of Strafforde as beyng conspyrators yn treason.

"The committe ys to take ynto consyderation what penaltye my lord Straffordes counsell have deserved."

[17] "In the Court of Requests concerning the inhabitants of Bedford and peticions. Sir Henry Harbert in the chaire." Moore, f. 322.

[18] "Richard L. Rudder was convented before Mr. Wingatt Justice and others for reporting Sir Lewis Divesse to be a papist who confessed it. Proved by John Napier some 2 monethes since.

"Richard Glaver confesseth the same and that he had made it 3 weeks before the eleccion. He saith that their were diverse who told him they would have given their voyces with Sir Lewis Divesse but that they heard he was a papist.

"Thomas Patricke saith he met Thomas Barnes in Luten market and desyred him to give his voyce with Sir Lewis Divesse and he replied he could not for he heard he was a papist and said he was told by a butcher, but could not tell his name.

"John Ironmonger saith that Thomas Barnes being desyred to give his with Sir Lewis Divesse said he would never give his voyce with a papist and that he heard he was a papist, but we made them frends." *Ibid.*

Harl. 162, f. 315a] March 13, Saturday, 1640.

An act for the sale of certaine Mannours lands and tenements of Sir Philip Knyvet[1] Baronet for the payment of his detts, it was read 1ª vice. And the onlie scope of it being to give Sir Philip Knyvet[1] power to sell all his estate and ruine his familie, although it appeared hee had borrowed great summs by concealing conveiances, yet the Howse after two or three had spoaken against the saied bill, upon the question rejected it.

An act to enable the Marquesse of Winchester to grant estates for 3 lives or one and twentie yeares etc. of lands in the Countie of South[ampton] etc. reserving the old rente. (These two etc. weere in the title endorsed for the bill came ingrossed from the Lords.) Soe after three or fowre had spoaken to it, it being the 2ᵈ reading it was committed. And the committee of which I was named weere appointed to meete this afternoone[2] at two of the clocke in the Court of Wardes.

Ordered that the Election touching Worstershire shall bee heard on thursday come three weekes.[3] (It was betweene Sir Thomas Littleton and Serjeant Wilde and Mr. Salloway and had been twice heard alreadie on two severall dayes.)

Mr. King made reporte from the Committee of Argiers that they had considered that 10,000£ at the least would bee necessarie to sett out seven shipps to defend the westerne coasts:[4] and that if it might bee allowed out of the two next subsidies, some westerne gentlemen would undertake for the paiment of it downe.[5] Heere upon ensued a long debate, some shewing that the Northren affaires required more monie then those two subsidies newlie granted would advance, others shewed that if the westerne coasts weere not speedilie guarded mens persons would not bee in safetie, nor those Counties bee able to pay the subsidies alreadie granted: others moved to have another subsidie granted. At last after long debate; it was ordered f. 316a] that wee should on monday next take into Consideration the providing of shipps to bee sett foorth for the safeguard of the kingdome.[6]

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[19] On this afternoon met also the Committee for Courts of Justice and discussed the Vaughan case. Verney, 27-28. For further details of it see meeting of the same committee on March 19 (below, p. 512). A comparison of Verney's account and D'Ewes's raises the suspicion that the two meetings are the same and that Verney's March 12 should be March 19. Of course it is possible that the committee went over the same grounds twice, some new details coming up the second time. For further details of Vaughan's case, see *Cal. St. P. Dom. 1640-1641*, 356, 505.

[1] Sir Phillip Knevett. Moore, f. 322.

[2] "This day." Moore, f. 322. C.J. says next Tuesday.

[3] "Sergant Wilde mooved to have tyme given him to produce his witnesses they beinge gone into the Country." Moore, f. 322.

[4] "Counting 6 shipps which the Kinge doth lende us 10,000£ is the some that will but furnish the shipps besydes wages for marriners and officers." *Ibid.*

[5] "The way thought fit to raise it is by that parte of the 2 last Subsidyes which is to be payd in Devonsheire and Cornwall, some gentlemen undertakinge to raise the mony presently if this may be consented unto by this house. Divers merchants

Then Mr. Stroud moved wee might consider of the Irish armie on monday next. Mr Mainard opposed that motion and Sir Walter Earle shewed that it was a busines of great waight, and hee hoped that after the conference touching the Earle of Straffords busines weere ended wee might this morning fall in debate of it, which motion was well approved.

Then Mr. Whitlocke made his reporte touching the answeere the Committee had yesterday framed to the 4th demand of the Lords in the last Conference touching the Earle of Strafford in which they desired to know what wee meant in desiring the Earle of Strafford might have noe counsell; for ther Lordships intended not to allow him counsell in matter of fact but in matter of law: and that if anie doubt should arise what was matter of fact and what was matter of law they reserved the determination of that to themselves. To which Mr. Whitlocke had with divers of the Committee upon the recommittment yesterday framed this answeare ensuing which hee read.

Fourthlie. At the last conference with ther Lordships concerning the triall of the Earle of Strafford, ther Lordships weere pleased to acquaint us with an order of ther Howse concerning counsell. The Commons doe conceive and soe desire ther Lordships will explaine ther meanings, that during the whole time of giving the evidence and untill the same bee fullie concluded on both partes upon all the severall articles noe councell is by law and course of Parliament to bee allowed him. And the Commons acquaint ther Lordships that if at anie time during the opening of the evidence the counsell of the Earle of Strafford shall interpose, the members of ther Howse that shall bee appointed to manage the evidence must of necessitie desist, because it will not become them to plead against Counsell. And as concerning the allowing of Counsell in matters of law and the reservation to ther Lordships to iudge the doubts that shall arise what is matter of fact and what not; The Commons heerein doe save to themselves, all rights that doe pertaine to them according to law and to the course of Parliament, when such matters of law and doubt what is fact and what not shall arise.

This reporte being finisht and it being voted in the Howse upon the

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are willinge to advance mony for the navy, if they may have security." Harl. 1601, f. 47 *verso*.

[6] "The estate of the navie and which way to provide monies for the secureinge of the seas and Mr. Speaker to put us in minde." Moore, f. 322.

question that the same should bee our answeare to the Lords fowrth proposition, Mr. Perepoint was sent away with a message to the Lords, To desire a free conference with ther Lordships touching the matter of the last free conference about the triall of the Earle of Strafford, by the former Committee of both Howses.

And it was the sence of the Howse that when ther Lordships should admitt of the Conference that it should bee managed by the Committee appointed to draw upp the saied answeares to the Lords propositions of which I was.

After divers motions it was ordered that the Committee for the Kings armie should consider of some meanes to lessen the charge of the same armie and the Scottish armie and to consider what monies are necessarie for the paiment of both the saied armies when they shall disband: and it. They weere to meete on monday next in the Court of wards at 2 of the clocke in the afternoone.

The Lorde Digbie being appointed one of the Reporters yesterday morn- f. 317a] ing at the Conference with the Lords about the Regulating of the Kings armie in the North, as is ther sett downe.[7] But nothing was ordered therupon.[8]

Mr Perepoint being returned and having sitten still awhile; stood upp and made reporte that having done his message after a shorte stay, hee was again called in and received this answeare following from Sir John Bankes Lord Cheife Justice of the Common Pleas (who during the Lord Keepers sicknes supplied his place.) That ther Lordships would give us a meeting presentlie by ther Committee formerlie appointed as was desired.

Wee therupon that weere of that select Committee most of us went to the saied conference being 48 in number, and ther weere alsoe present at it a great manye of the Howse besides. The Lords being come out and sett Mr. Whitlock read our answeares to those fowre propositions or circumstances touching the Earle of Straffords triall which the Lordes had proposed to us, much to the same effect as I have inserted the first three on yesterday morning, and the 4th almost verbatim as I have inserted it this morning. Hee having read the saied paper added; that the Howse of Commons did desire ther Lordships to appoint a speedie day for the triall of the saied Earle of Strafford.

Upon Sir Henrie Harberts motion ther happened a debate touching the order was made this morning to deferre the hearing of the Worstershire busines touching the election of the knights of the shire to this day three weekes; whether it should bee altered or not and a sooner day appointed. This debate lasted till our returne, and then it was laied aside and came to nothing.

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[7] D'Ewes had embodied in his account of March 12 Digby's report of what Bristol had said. See above, p. 478.

[8] "Noe thinge is yet done upon this conference though the lord Digby mooved for a day." Moore, f. 324. But Moore follows this (as does also C.J.) with the order to the Committee for the King's Army which D'Ewes puts before Digby's report. Moore says further that the order was made "upon Sir John [H]othams motion."

It was then moved [*blank*]

Harl. 164, f. 135b] Then wee begann to fall upon the matter of the Irish armie and the Speaker was putting the question of reenforcing it with 2,000 foote and a 1,000 horse.[9]

I stood upp and saied a garrison was *iugum frenum et hirudo,* etc. and to lay a perpetuall charge on the Irish etc. But if to raise this armie till Scottish disbanded.

Then many spake to disband Irish armie, and yet not reenforce etc. others to reenforce old armie: and at last it was moved that else the Lords could not ioine with us.

This Sir Walter Earle shewed to have been the Lord Keepers conditional answeare to us.

I shewed that the Lord Keepers answeare was indeed conditionall but that did not therfore oblige us to recede from our first proposition or to embrace the condition for if wee should fix a now certaine increase of the old armie in Ireland upon that kingdome to maintaine etc., worse then not to dissolve the new armie at the present; for all agree it shall bee dissolved when Scottish armie disbands: wee may therfore maintaine our first desire to ther Lordships and shew for what reasons wee cannot ioine with them in the condition of encreasing the olde armie, and if they shall not yeild wee cann then if wee thinke fitting assent to them.

f. 136a] Earl of Bath spake and saied the Lords had taken into consideration.[10]

1, place Westminster hall.[11] 4 Great Chamberlaine and Chamberlains of Howse, to acquaint the King with it.

2, As Committee for this time, saving right to this Howse without being drawen into president.[12]

3, granted whollie that wee shall manage the evidence by members of our owne as is desired.[13]

4, The Counsell of the Earl of Strafford shall not stand at the barre but in some convenient place to heare nor shall interrupt the members of the Howse of Commons, but shall after triall ended speake to the matters in law when ther Lordships shall thinke fitt.

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[9] "Then we fell into debate concerninge the disbandinge of the Irish army and Sir Fredericke Cornewallis conceaved it not fitt to be disbanded because their is an enemy in our bosome, and then he presently went forth, and Sir Water Earle mooved that he might explaine himself, which I conceave he must on Monday morning next ensuing [The last five words in D'Ewes's handwriting].

"Mr. Tralaby [Trelawney] called Ireland a conquered nation, which tooke ill, and Sir John Clatworthy desyred that he might explaine himselfe, which he did.

"The lords would have the old Irish army reinforced 2000 foote and one 1000 horse by the vote of this house." Moore, f. 324.

"The Lords consent to the disbandinge of the Irish army so that ther may be 2000 foote added to the olde Irish army, which consists of 2000 foote and a 1000 horse. If we shall advise the reinforcinge of the olde Irish army it may be some ingagement on us to maintaine them so thay may be maintained by the kingdome of Irelande, then to consent to the reinforcinge." Harl. 1601, f. 47 *verso.*

[10] This is Whitelocke's report of the free conference with the Lords which had just been held. See C.J. II, 104; Moore, f. 325.

[11] "They conceave Westminster Hall to be the fittest place, and to that end the lord great chamberlaine and the lord chamberlaine of the household shall be appointed to acquainte his majestie therewith." Moore, f. 325.

[12] "To the second they yeeld that we shall come to the triall of the Earle of Strafford as a committee for this tyme, soe that it shall not be drawne in presidents against them, saveing to themselves the rights of their house." *Ibid.*

[13] "Thirdly they yeald that we shall manadge the matters by members of their owne." *Ibid.* "Our owne" is of course meant.

5, They will give us notice of the day assoon as they have advized with workemen, within what convenient time a fitt place may bee prepared.

Then it was moved that wee should first consider of the Irish armie and disarming the English Papists on Monday morning. Others spake to the contrarie shewing that ther was an order made in a full Howse this morning to consider of raising monie for the setting out of shipps for the safeguarding of the coasts and now ought not to bee altered in a thinne Howse. But it was answeared that wee weere in the debate of the Irish armie since that and it is the constant order etc. to resume a busines and soe upon the question it was ordered That on monday morning next wee should first assume the matter of the Irish armie.

Then it was moved and ordered that the Committee in the Earl of Straffords busines touching these questions of the triall (of which I was)[14] are to meete at 2 of the clocke in the afternoone in the Treasury chamber to consider of these answeares of the Lords.

Harl. 162, f. 319a] Post Meridiem.

I was awhile at the grand Committee for Religion wheere one Mr. Stone rector of Abchurch Clements in the East London was accused of divers particulars hee had preached which weere prooved.[15] viz. That hee saied the Sunday compared to Christmas day was but as the chaffe compared to the corne: and that God would not heare praiers in private howses, but was bound to heare praiers in Churches.

Then I went to the Committee appointed for the Bill intituled, An act for the abolishing of Superstition and Idolatrie and for the better advancing of the true worshipp and service of God: of which I was. And ther wee debated severall particulars and agreed upon some additions and amendments.

Betweene six and seven at night I returned againe to the grand Committee and then they weere readie for a vote against the saied Mr. Beniamin Stone; against whome besides other grosse particulars it had been prooved that hee had been frequentlie drunke and was a common haunter of stage plaies and had spoaken scandalouslie touching the Parliament. Soe ther passed three severall votes against him. That hee preached scandalouslie and spoaken against the Parliament. That hee had lived scandalouslie; and That they thought him incapable of anie spirituall promotion or to enioy the same in the Church.

March 15, Monday, 1640.

The Speaker came late and the first thing after praiers was a motion made by Mr. Yong a Devonshire gentleman, upon a Letter hee had received from some of the Commissioners for the subsidies in that Countie, in which they made two doubts: the first whether they could taxe the same Subsidies, the day being past on which it is appointed by the saied act that it should bee taxed. And that the 2d doubt was whether the clergie should bee taxed for ther temporall estates of anie kinde, above the value of xxs seeing the wordes of the statute weere that they should bee taxed for ther temporall estates onlie that weere not above xxs yeares value. For the first all agreed that it was not materiall though the dayes weere past. For the 2d it was agreed that the word *not* should bee left out: the printed statute was read in that place, and wee found it to bee soe: and therfore upon the Speakers motion that the Clarke should this afternoone compare the print with the Rolle, and enforme us too morrow morning whether the word *not* weere in the saied Rolle: and soe wee proceeded noe further.[1]

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[14] The four words in parenthesis are in cipher.

[15] See C.J. II, 996.

An act against usurie was read 1a vice. Ther had been a former bill read 1a vice to the same purpose; which was withdrawen, and this Bill was brought into the Howse instead therof.[2] It was spoaken against by one man only, which hee might doe upon the first reading, to cast it out.[3] But others spake for it and soe it was retained.

The order was read which was made on Saturday morning last past a little before the Howse rose; by which it was appointed that wee should this morning take into our debate the consideration of Irish armies new and old, the disarming of the papists and the removing of certaine papists from the Court. After two or three had spoaken shortelie to it I stood upp and spake to the effect following.

That for the new Irish armie (which consisted of 8,000 papists and 1000 Protestants) wee had before voted that it ought to bee disbanded in respect of our owne safetie. The Lords had assented to us in this conditionallie that wee would agree that two thousand souldiers might bee added for the reenforcement of the old standing armie in Ireland. It then onlie rests for us in our next conference still to presse ther Lordships to ioine with us in our first proposition, and shew ther Lordships why wee cannot ioine with them in the condition: and that in three respects. 1, In respect of the charge. 2dly, in respect of safetie. 3dly, in respect of the kingdome of Ireland it selfe. First in respect of the charge: For wee are now shortelie to consider of his Majesties revenue and therfore wee should rather seeke all waies and meanes to lessen the charge then to augment it, in that kingdome,

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[1] There is no mention of this in C.J., but Moore, after giving the act against usury, says (f. 325): "There was a quaere by Mr. Yonge for the commissioners of the subsidy in Devon whether they might send forth their precepts for the collectinge of it, the day beinge past. And it was resolved they might, then was read a parte of the bill concerninge the cessage of the Clergy, which had above xx [forty *erased*] shillings in land and their was not to much incerted into the bill." Moore, f. 325.

[2] "An acte against usury once reade, and to begin the 10th of May 1642. Their was a former bill, but some inconvenience beinge found therein, it was withdrawne, and this bill put in it place." Moore, f. 325.

[3] "Mr. Jenings spake to have it cast out." Harl. 164, f. 136a.

f. 320a] as well as at home. And wee know the maintaining of garrisons is a vast expence which must fall either upon the inhabitants themselves and soe impoverish them or upon the crowne. When the Kings of England had Callice it cost double the maintaining what it yeilded. The vast revenues of Spaine are eaten upp in his garrisons. The Venetians are at soe great an expense in them alsoe as everie five yeares they are enforced to make great extraordinarie levies to pay ther detts. And to bring into Ireland soe considerable and vast a charge, that kingdome having alreadie been soe pilled and polled would bee an heavie burthen. Secondlie this ought to bee avoided in respect of safetie. For as it was saied in one of the Parliaments of King H. 4 (viz. Rot. Parl. de a°. 11mo. H. 4, n°. 5°.)[4] that the Kings strongest fortresse is to have his peoples hearts, soe it will bee heere. Let his Majestie by diminishing the burdens and charges of Ireland long oppressed and depilated under the late Lorde Leiftenant, gaine but ther affections, and hee may rather lessen then increase the olde armie. It was good Counsell that Aristotle gave to King Philip that if hee gained the love of his subjects hee should neede noe other frontier towne against his enemies. But if wee should now cause the old armie in Ireland to bee encreased to the number of 2,000 souldiers moore, ther would new iealousies bee bredd in that kingdome, as well as great charges: and what badd effects those iealousies are like to produce may easilie bee guessed. Thirdlie and lastlie this resolution and the verie debate tending unto it ought to [be] laied aside of encreasing the old armie in England[5] because it is as free a kingdome as England it selfe: for what wee may say of William the firsts getting the crowne of England, *Nec vicerat unquam nisi victa fuisset:* Soe it may bee saied of H. 2^{ds} conquest of parte of Ireland. For as England by the Normans comming in gained greater freedome then ever it had before because ther Conquerors became a parte of them; soe the Irish obtained the same immunities by the planting of the English ther in H. 2 time; for they iointlie with the Victors themselves became one free Nation under a great and wise Monarch. And therfore wee ought not heere to impose anie armie upon them but to leave it to ther owne Parliament to debate and resolve theron. My advice therfore was that in respect of the charge which wee should seeke to lessen of the danger which might ensue and lastlie in respect of the freedome of the Kingdome of Ireland, wee should not ioine with the Lords in advizing the encrease of the old armie in that kingdome but persist in our desiring of ther Lordships ioining with us to have the new armie disbanded.

Harl. 164, f. 136a] This Howse desires according to ther former proposition that the new Irish armie may bee disbanded as a thing concerning the safetie of this kingdome that noe papist bee entertained in the old armie and for the other proposition of adding of 2,000 men moore to the old armie this Howse thinkes it not fitt to interest them selves therin.

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[4] No. 3. *Rot. Parl.* III, 622.
[5] Ireland must be intended.

The words *Referrs it to the King* weere in the order against which I spake and shewed it implied a kinde of consent in us. Wherupon after a little dispute those words weere left out.

Mr. Capel moved about Westminster hall that scaffolds would bee readie in 4 daies if doores shutt upp else not etc. divers spake to it. I would have had a division from the Common pleas barre etc. at last it was referred to Sir Robert Pye and Mr. Glinn to take order in it who went away presentlie about it to shutt upp doores.[6]

Then wee fell upon disarming papists. The Lords assented to disarme such as weere by law to bee disarmed and those weere onlie convict, others desired the rest alsoe etc. Mr. Mainard wished not till a law weere made for it and all allowed that such a law should bee drawen. Sir Walter Earle moved that secrett places in howse[7] etc. I shewed what in Mr. Babingtons howse in the powder Treason. Then wee fell againe to debate who should presentlie bee disarmed and some would have had such as had compounded because that hindred conviction. Then it was doubted by some whether such as weere convicted being Peeres of the Upper Howse or such as they protected could bee disarmed.[8] Mr. Pymme saied hee thought they weere not by that exempted from this law.

f. 136b] It was then debated touching the 4 wee desired should bee removed from the Queene Mr. Walter Mountague Sir Kenelme Digbie Sir Tobie Matthews and Sir John Winter. For the three first it was agreed wee should desire them to bee removed but much dispute ensued against Sir John Winter the Queenes Secretarie to bee removed.[9] Others spake for him: and shewed his good parts and integritie, though hee weere a great papist, and that a Frenchman might come in his roome. Some thought others saied that papists by the law weere not to bee at Court; but onlie by leave to follow shortly anie suite or busines but not to bee servants in ordinarie service in Court.

Another question was started whether wee should not send the Queene thankes for her furthering the calling of the Parliament and the passing the trienniall bill.[10] Others weere against it, because they desired to ascribe it cheifelie to the Kings goodnes, and because it came onlie collaterallie to us from the Lords at a former Conference from Earles of Dorset Bristow and Holland, although they saied that they did it by the command of the Lords.

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[6] "Mr. Caple declared that the Earle of Lindsey lord high Chamberlaine of England sent for him forth of this house, and declared to him that Mr. Inigo Jones the Kings serveior generall had provided workemen for the scaffoldinge of Westminster hall for the two houses to meete together, at the triall of the Earle of Strafford, and how that the workemen say they cannot finish the worke under eight daies, except the dores of Westminster hall be kept shutt, whereupon Sir Robert Pie, and Mr. Glin were chosen to goe to take the best course they could for the expeditinge of the matter, for that the workemen said if the dores were kept shutt then they could doe it in 4 dayes." Moore, ff. 325-326.

[7] "Sir Water Earle shewed that the papists have many secrett places to hide their armor in as in Babingtons house in the powder plott, and therefore that care should be taken for searchinge their houses." Moore, f. 326.

[8] "Others said that all such as had made their composicions should be disarmed. Then fell a debate whether the lords and such as they protected duringe parliament might be convicted or disarmed." Moore, f. 326.

[9] "And then the fower great persons which we moved to be put from the court . . . they are all goeing away save Winter.

"The worst of serpentes is the viper, and it feeds upon her mothers bowells, soe the English papists you know what they doe." Moore, f. 326.

[10] Moore's notes (f. 326) suggest the way in which this question was started: "After a longe debate concerninge the removeinge of Sir John Winter from the queene, the

Mr. Sollicitor and Mr. Mainard held directlie that by the Statutes de a^{o}. 5^{o}. Eliz.[11] and de a^{o}. 3^{o}. Jacobi, papists might bee servants in ordinarie in Court if they weere licenced etc.[12] Soe wee thought fitt to lay this demand aside to remove Sir John Winter till[13]

Mr. Attornie etc. Dr. Bennett etc. desired that ther might bee a Conference presentlie in the painted chamber by a Committee of this Howse with the Committee of the Lords Howse formerlie appointed touching the Earle of Straffords triall.[14] They being gone after a motion or two of noe great moment,[15] wee resolved to meete. Messengers called in etc. wee would meete.

Then Sir Ralf Hopton begann a motion about navie.

I spake to orders of Howse to goe to conference and soe wee went. I was one on the Committee.[16]

Earle of Bath gave us notice of the Lords resolution, first for the place that it should bee Westminster hall and the King being acquainted with it did assent.[17]

2, For time on monday next at 9 of the clocke.

3, Notice to the Lord Leiftenant of the day and a warrant to bee sent to the Leiftenant of the Tower to bring him accordinglie.

The Earle of Essex shewed that the Lords had commaunded him to read this paper to us. Wheereas the Lords of the great Counsell at Yorke to cleare ther Honour onlie have made ther protestation that they did neither command nor approve the raising of monies in Yorkeshire as is alledged by the Earle of Strafford in his answeare to the 27 Article of the Commons. Now the saied Protestation is by this Howse unani-

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lord Digbie alleadged very much for retractinge from removeinge him, and one reason was that the trienniall bill had not yet passed but by reason of the queenes earnest solicitacion."

Harl. 1601 gives us more of Digby and a speech of Fiennes.

"Lord Digby. In layinge this aside we shall contribute to our owne ends. The nuntio is discharged. We have the worde of the kinge and Queene that that theare shall be no more such resort to masse. Distressinge disobligeinge and incensinge the Queene, the articles all over double what shee hath. We may make her extende that liberty the kinge would have donne those without the Queene but not at that time. Moves that this parte of the conference may be laide aside for the present.

"Mr. Fines. Noe reason that the queene should be incensed by our desire to have the lawes put in execution. We requite her goode offices by removinge ill officers, which we must thinke so when the lawes so expresseth. If the French make a quarrell of this they may without it." Harl. 1601, f. 48.

[11] 35 Eliz. c. 2. *Stat. of the Realm,* IV, Pt. ii, 845.

[12] Chapter V. *Stat. of the Realm,* IV, Pt. ii, 1077-1078.

[13] "But a message comeinge from the lords we left of the debate, and called in the messengers whoe were Mr. Attorney generall, and Doctor Mason." Moore, f. 326.

[14] "That the house of peeres desyred a conference concerninge the tyme of the triall of the earle of Strafford, and other circumstances concerninge the same, and that by the same committee forthwith in the painted chamber, if it may stand with this house conveniency." *Ibid.*

[15] "Then Mr. Pim desyred that it might be ordered to resume the former busines to morrow morninge at 9 aclocke which accordingly is done." *Ibid.*

[16] Moore reports the following business transacted while the committee was absent. "Mr. Glin made the reporte concerninge the stoppinge of the passage in Westminster hall till the scaffold be made, and desyred that an order might be made and sett upon the gates, and that a guarde might be prepared to keepe the passadge, but no stand till they come from the conference.

"Sir William Boyer beinge dead their was a mocion made that a new writt should issue forth for a new eleccion which was done."

[17] "Condiscended thereunto." Moore, f. 327.

mouslie admitted. And it is likewise ordered that soe much may bee intimated to the Committee of the Howse of Commons at the next conference.[18]

Mr. Pymme moved that the saied Protestation might bee referred to the Committee in the Earl of Straffords cause to consider what use to make of it.

Mr. Glynne moved that this being a bolde falsification in his answeare it might bee pressed against him at his triall, and that the Lords protestation might bee entred in.

And divers others spake after Mr. Glynne touching the Leiftenants desiring to have gott a pardon etc.

Ordered that the busines touching the disarming of the English papists and removing papists out of Court, might bee resumed too morrow. Then divers moved that the busines of the Navie might precede: and ther followed a hott and long debate: I moved that this matter might not bee broaken offe in the midst as it weere but that this being finished the other might succeede it too morrow. At last upon Mr. Treasurours motion all further debate was laied aside and noe order made but wee weere too morrow to assume the agitation of that busines wee should finde most necessarie and soe the Howse rose.

Harl. 162, f. 323a] Post Meridiem.

I was at Sir Lewes Dives Committee of which I was, and divers others of the same Committee weere present. Wee had in agitation the election for the Countie of Carnarvan in Wales; which is to send but one knight to the Parliament. The Election was made Dec. 2 last past. Mr. Thomas Glynn and Mr. John Griffith the yonger stood in competition together. It was proved on Mr. Thomas Glynnes parte that the greater show of voices was for him, that after the crie was past the bailif adiourned the Countie Court according to the usuall manner from month to month: wheereupon the sheriffe and the undersheriffe did a little after rectifie the crier and shewed that the adiournment was to take the Poll at a meadow iust by the towne called Mazeglaze[19] which in the Brittish toung a Feild green. And Mr. John Griffith the elder did desire the sheriffe to adiourne it to Mazeglaze in the hearing of the crier before the adiourment was made by him. After the saied adiournment many of Mr. Glynns voices conceiving hee had it departed out of towne. It was confessed that divers freeholders went out of towne after the saied declaration of the sheriffe was past, or at least absented themselves from the Polle. Mr. Griffiths councell onlie opened the cause and shewed that Mr. Glinns agents gott the writt for the election into ther hands and kept it from the sheriffe till nine of the clocke the verie morning the election was made. viz. the 2 day of Dec. last past, and shewed how the same election proceeded legally all along which I deferre to sett downe[20] till it bee proved which is to bee on Friday next to which day the Committee did adiourne the further hearing of this busines.[21]

[18] See C.J. II, 105, where the Protestation is given *in extenso*.

[19] "Neare Carnarvan." Harl. 164, f. 137a.

[20] "Mr. Brinker ther. Above 500 for Mr. Griffith." *Ibid.*

[21] Moore (ff. 327-328) reports another committee meeting:
"Munday the 15th March, 1640. Mr. Henry Pelham in the chaire for the abuses

March 16, Tuesday, 1640.

William Wingford[1] because hee did not appeare before the Committee appointed to enquire after the abuses of the Court of wards being warned according to the accustomed manner, was sent for as a delinquent.

An act for ratification of a decree made in the Exchecquer chamber touching a charitable legacie of John Kendrick deceased given to the Mayor and Burgesses of the Borough of Reading in the Countie of Berks, was read 1^{a} vice.

An Act against pluralities was read 2da vice. This was a 2^{d} bill brought in to this purpose.[2] And after some few had spoaken shortlie to it;[3] it was committed to a former Committee appointed for the other bill before read heere to the same effect: of which committee I was. And because the former Committee had failed to sitt at the former day appointed and to adiourne it selfe, it was sine die and therfore it was appointed that they should meete on thursday next in the Inner Court of Wards at 2 of the clocke.

The Speaker enformed us that the bill it selfe for the 4 subsidies was mistaken as well as the print: and soe ther was a short bill made readie to helpe the defects of the former bill of subsidie which was read twice together and divers defects weere found in it, as they weere sett foorth by severall members.[4] Then it was committeed and a new committee was begunne to bee named.

But I stood upp and after awhile having gotten silence, I moved that it might bee referred to the former Committee which had drawen upp the bill of subsidie, and upon Mr. Speakers proposing it to the Howse it was assented unto. And the same Committee weere appointed to meete at two of the clocke in the afternoone in the Court of wards. And it was ordered that the same Committee should take into consideration the names of the

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of the courte of wards betwixt Gab. Miles, plaintiff, Mr. Hollingworth and Mr. Holland defendants.

300£ to Chambers
100£ to Gosnell
200£ to the Exchequer and Hid.

Paid by the wards hand for
a concealment."

It was a case of wardship in which the defendants were accused of dishonest dealing. The opportunity seems to have come when Bennet "died at Homburgh, and soe it was 2 moneths before the widdow knew, by which meanes Chambers gott the wardship by necleckt." The chief witness was William Agard, a servant of the widow; another was John Collison. The land involved lay in Dartford. The defendants were cleared.

[1] Winckford, Register of Essex. C.J. II, 105.

[2] See above, the proceedings for Mar. 10. *Cf. D.O.* 51-52.

[3] "Alderman Pennington saith their was a priest and which was but a servinge man yet he hath five liveings." Moore, f. 328.

[4] "We drew this bill because the word not was put too much in the last bill concerninge ministers and we could not expunge that word without a new acte. . . .

"Then was the commissioners for Buck. and Gloucestershire which were omitted in this last bill voted to be incerted in this new bill, and resolved upon question." Moore, ff. 328-329.

Commissioners for taxing the saied subsidies in Buckinghamshire and Glostershire.

After severall motions and much debate it was ordered that the Com- f. 324a] mittee appointed to examine the Jurisdiction of the High Commission Court the Starre-chamber and Counsell table should frame one or severall bills for the regulating of the saied jurisdiction.[5]

This produced another debate about the arbitrarie proceedings in Parliament, that ther might bee some regulating of them which especiallie was intended in respect of the Lords hearing all causes and it was therupon ordered: that the Howse should on friday come sennight consider of regulating proceedings in Parliament,[6] and then take the same into full debate. And Mr. Speaker was appointed then to putt the Howse in minde of it.

Sir Arthur Ingram was sent to the Lords to desire a Conference with ther Lordships presentlie by a Committee of both Howses in the painted chamber touching the Impeachment of the Commons against Dr. Cousens and others if it might stand with ther Lordships conveniencie.

A petition[7] was preferred to his Majestie and by him commended to the Parliament touching the shipps taken since 1628 and the captives by those of Argires. The number of the shipps by them taken and barkes was 131 and of captives 2,555 of his Majesties subjects. Soe the petition was referred to the Committee of Argires to consider of.

Divers weere added to the Committee appointed to examine and search out the state and condition of the popish Hierarchie in England: which Committee was to sitt this afternoone.

Upon Sir Henrie Harberts motion the further hearing of the Election of Worstershire was putt offe till friday come month.

Harl. 164, f. 137a] Upon the returne from the saied Conference[8] Mr. Speaker having proposed whether wee should goe on with the consideration of Sir John Winters removing from being the Queenes Secretarie, or with the busines of the navie, and wee beginning to enter into the debate of it, Mr. Whitlocke made reporte from the Committee touching the Earl of Straffords triall of which I was (yet not present ther yesterday)[9] what they had done upon the Lords saving declared to us on saturday last, which was as followeth.

Wheereas the Howse of Commons have formerlie declared to ther Lordships that the Earl of Strafford being impeached by them they doe conceive it doth belong to them to resolve in what manner they will bee present at his triall and that of right they may come as an Howse if they please but for speciall reasons upon this occasion they are resolved to send ther owne members as a Committee of the whole Howse authorised by ther Howse to bee present at the triall to heare and some particular persons of themselves to manage the evidence.

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[5] See C.J. II, 105. The bills were to be prepared so that they could go up with the bill for two subsidies.

[6] "How they may drawe a bill for the regulatinge of parliaments." Moore, f. 329.

[7] "The petition of Mr. James Frizell, Consul of Algiers, in the name of himself and others poor captives." C.J. II, 105.

[8] This was the conference for Cosin's impeachment. See L.J. IV, 186.

"Then Mr. Rouse and Mr. Potts being sent to manadge the conference, Mr. Rouse performed it exceedinge well." Moore, f. 329. Rouse's speech before the Lords is to be found in *S. and P.* 45-48; Rushworth, IV, 208, 210-211; Nalson, I, 789, 790-791.

[9] The words in parenthesis are in cipher.

The Howse of Commons doe still continue ther resolution in everie parte therof, and therin and in the matter of allowing Councell; and ther Lordships reservation to ther iudgment what is matter of fact and what not the Howse of Commons doe save to themselves as they have formerlie done all rights that do perteine to them according to law and the course of Parliaments and doe declare that the proceedings in this case shall not bee drawen into a president to the preiudice of the Commons.[10]

This being read alsoe by the Speaker it was voted in the Howse to bee our Answeare and saving according as it had been drawen by the Committee: and it was desired that it might bee soe entered in the Clarkes booke.

After a little dispute which should precede whether the matter of Sir John Winter or the navie: wee proceeded with that touching Sir John Winter; and divers spake to it, and it was doubted whether it weere matter of law and whether by the statutes de a°. 5°. Eliz. and a°. 3°. Jacobi, cap. 5,[11] Popish Recusants could bee servants to the King and Queene by the Kings licence or the Counsels.

8 Julie, 1625, a°. 1°. Caroli, the petition was preferred of Religion. This was the answeare to the 5 Article of it In which the King saieth, that hee had provided in the treatie with France upon his marriage that noe popish recusants his subjects should bee attendant upon his Queene; and that hee would provide that none of them should bee reteined in his service or his Queenes.[12]

f. 137b] Debate whether that paper or Statutes de a°. 5°. Eliz. and de a°. 3°. Caroli

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[10] This report is practically word for word as in C.J. (II, 105-106), an indication that D'Ewes had copied the original at the clerk's desk. Moore did the same, but made a more careless copy.

[11] See above, p. 489, notes 11 and 12.

[12] "Then Sir John Strangwayes made a very good speech, to induce this house to leave of the debate of Sir John Winter the queenes secretary, for withdrawing him from the court because he is a papist, but when he had alleadged the queenes great affeccion to this house, in assenting with the lords, to desyre the Kinge that he would be graciously pleased to call this parliament and also for the presseinge his majestie to passe the trienniall bill, with many other reasons. But Mr. Pim, then standing up made a very excellent speech against it, and declared that we ought rather to obey God then man, and that if we doe not preferr God before man, he will refuse us, with many other good notions. Then Mr. Rigby seconded him and said that he conceaved the statutes were cleare against sufferinge any papist to be about either Kinge or Queene." Moore, f. 330.

"Mr. Pimme. The laws against papists founded on religion. Theire religion leaves them not free. The kings interest in the prosperity of this kingdome. Most for her honour that the religion and peace of the kingdome be preserved. Neither fear or hope ought to be the rule of our proceedings. We ought not to forget our lawes allthoughe they may be forgotten in the treaty. We are to looke upon the wisdome and direction of the lawe 35 Eliz. the 3d of kinge James the kinge may call for them but they must not continue. This statute made after a greate treason. These persons weere imployed for the collectinge of mony. The Common lawe a stronger tye then any article betweene another prince and he can be.

"Mr. Pamer. In 35 Eli. recusants are to be confined to 5 miles if they be not stayed by the kings commande, in 3° unless it be by the kinges command, his heires and successors.

"That none shall be admitted into his service nor the service of the queene that are popish recusant; this provided in the traty with France and the kinge promised to take care that it should be soe. This in the kings answer to a petition preferred by should bee read first.[13] After much dispute when it was agreed which should bee read first, and that it was agreed that the paper should bee read first, some would have had all read, others but the 5th Article.

I stood upp and moved that I was gladd to see this rubb soe farr well removed and wished that for the new difference wee might first have the answeare to the 5 Article read; and if that did not satisfie then to have the whole, which a little after was done accordinglie.[14]

Then when some saw this Answeare to bee soe direct they questioned the paper. Soe the clarke saied that hee found it amongst the papers of that yeare. MR. WALLER saied it was a light answer for which divers called him to the barre.

But I stood upp and saied that hee had offended in speaking slightlie of what hee should have spoaken seriouslie and wisht wee might passe it by or at least let him explaine himselfe wheere hee stood. For the paper it selfe I shewed that it was of moore waight then the Journall booke it selfe of that Parliament. For it was the verie autograph which in this particular etc. soe in Upper Howse etc. these are such things as they call *Autographœ,* etc. soe nothing could bee of greater waight, with which all weere abundantlie satisfied.

A dispute soon after what force of a law this petition and the answeare to it had.

I shewed that all our lawes ancientlie but petitions and answeares and if the King answeared one parte and denied the other yet soe much a law etc. Petitions of Commons alone. Petitions etc. Lords alone etc. Kings assent in presence of either etc. and petitions of both etc. as this which strongest soe as this a law: and though Parliament brake offe at Oxford; yet the answear to this petition made it a session and it ought to bee printed as a law.

Mr. Hamden brought a copie from the clarke of the Upper Howse both of the 5 Article of the peticion a°. 1°. Caroli and of the answeare which shewed that 9°. Aug. 1635,[15] was the Kings answeare at Oxford given to the petition preferred at London 8 Julii foregoing, and it appeared the opinion of the Parliament then was that Stat. de a°. 3°. Jac. cap. 5°. thought to extend to debarre recusants.

As manie as are of opinion that wee shall proceede to ioine with the Lords to desire the remoovall of all popish Recusants from Court and especiallie Mr. Walter Mountague Sir Kenelme Digbie Sir Tobie Matthewes and Sir John Winter. And that the 5 article of the petition de a°. 1°. Caroli and the answeare to it bee used as an argument to this purpose. This was ordered, and those who managed the former conference should manage this. Mr. Fines to bee sent upp too morrow morning to desire this conference.[16]

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both houses to the kinge in the first yeare of his regime, his answer to the 5 articles. So the kinge purposeth it shall be as is provided in the treaty.

"Mr. Evellin. 3 of Kinge James 5 in the first parte is scored what they shall not doe, not to come without a warrant, a provision for those that have trades; that they may stay all convicted persons to be as excommunicate to all intents and purposes. 1 Elizabeth." Harl. 1601, ff. 48-48 *verso.*

[13] "Then Mr. Hollis desyred that the articles presented to his Majestie in the first yeare of his raigne, with the answear he made to the house of Commons might be read." Moore, f. 330.

[14] Printed in L.J. III, 480.

[15] 1625.

[16] "Upon readeinge of these artickles it was thought fitt that a message should be sent to the lords to desyre a free conference, and Mr. Nathaniell Fines was appointed to goe with the message, and the former which did manadge the conference to manadge this which were Sir Walter Earle Mr Ranholds Sir John Clatworthy, and Mr. Waller, that we should proceede to ioyne with the lords accordinge to our former proposicions, in desyreing to have the English papists removed from courte, namely Sir Tobie

Harl. 162, f. 325a] Post Meridiem.

The Committee to consider of the breach of priviledge of Parliament in Mr. Hollis case and others sate in the Dutchie Court of which Committee I was. Wee heard ther Mr. Longs cause. It was begunne before I came but I borrowed Mr. Hales shorte breviat and the cause appeared to bee this. A Parliament was summoned the last day of Januarie a°. 3°. Caroli. to beginne the 17 day of March then following. Mr. Walter Long was then sheriffe of Wiltshire made the 3d day of Nov. a° eodem 3° Caroli. Hee was choosen and returned one of the burgesses or citizens of Bath in the Countie of Somerset. The Parliament assembling, it was afterwards dissolved. And the saied Mr. Long and Mr. William Stroud being in and about London and appearing in severall publike places for a fortnight after the Parliament was dissolved, did afterwards departe into the cuntrie; and then presentlie a proclamation came out against them as if they had been fugitives. After his imprisonment and Mr. Strouds with others and severall proceedings against them as Members of Parliament; then Mr. Long was singlie proceeded against because having been sheriffe and taken the oath not to departe out of his Countie without licence, that yet hee had come to the Parliament without the same. A Bill to this purpose was preferred against him in the Starre-Chamber 27 Nov. a°. 5°. Caroli. To which hee did plead and demurre shewing, 1, That ther was noe averment that it was *sine licentia Regis*. 2, That hee had the Kings licence in 3 respects. 1, in respect of his writt of summons and the election therupon. 2, the Provision of the Statute de a°. 6°. H. 8, Cap. 16.[17] 3, in respect of the proclamation issuing out before the saied Parliament begann commanding all men summoned and elected to attend. But this plea and demurrer was overruled, and soe hee was ordered to answeare, which hee did. Shewing his election and returne to bee without violation either of his oath or office. And that the Howse of Commons commanded him to attend ther. And to the charges of his unlawfull periurie, neglect of his office and procuring himselfe to bee elected a burgesse hee denied all. And yet without anie further proofe, they proceeded to a sentence in the saied Court upon bill and answeare, although hee had alsoe shewed that his wife and children weere resident in the Countie: that the sheriffe may bee absent if commanded but by ordinarie proces to attend and alsoe that George Bird his undersheriffe and his deputies performed the worke of the Shreivaltie. The sentence was given in Starre-chamber 5°. Febr. 5°. Caroli: and suggests that his non residencie was a contempt, and that for breach of oath: and trust hee was fined in 2,000 markes; and committed to prison not to bee enlarged till his submission. Then was the fine estreated into the Exchec-

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Mathew, Sir Canelme Digby, Sir John Winter, and Mr. Water Mountacue, and this our concurrency with the lords is to be presented to them in a free conference to morrow morninge." Moore, f. 331. *Cf.* C.J. II, 106.

[17] *Stat. of the Realm*, III, 134.

quer; and the Sheriffe of Wiltshire upon an extent that issued out to him to levie the saied fine made returne, That the saied Mr. Long had noe lands or goods at the time of the sentence given. It appeared that Mr. Long had made a conveiance of his estate 10 Martii a°. 4°. Caroli to Sir Edward Littleton, Mr. Mason, Mr. Kirton and to his two brothers Mr. Thomas Long and Mr. William Long. These being sued by an English bill in the Exchecquer, the three first answeared that they knew nothing of the conveiance till it weere passed; but the two others shewed that it was a true conveiance made to pay 4000£ true detts and made to Thomas Long aforesaied especially to save him harmeles, and that intruth hee received the profitts of the saied lands to that end and purpose to pay the saied detts f. 326a] which was alsoe proved by divers witnesses: And yet notwithstanding the same, The Barons in the Exchecquer declared the saied lease to bee in trust, and that the saied feoffes should stand seized to the Kings use till the saied summe of 2,000 markes weere paied.

Mr. John Ashburnham being a member of that verie Parliament in 3° Caroli begd that fine uniustlie imposed on Mr. Long; and then pretended that hee had a privie seale of 2,000 markes from the King, and the late Lord Treasurour Weston certified soe much falselie to the Barons: for intruth the saied Mr. Ashburnham had noe such privie seale granted him till in a°. 14°. Caroli. In a°. 8°. Caroli the saied Barons of the Exchecquer ordered the saied feoffees should make a lease for 10 yeares to the Kings use of the saied lands to pay 200£ yearelie till the saied summe of 2,000 markes weere all discharged, all which saied summe the saied Mr. John Ashburnham by vertue of the saied lease received whilst Mr. Long in the meane time could not discharge the saied true dett of 4000£ or maintaine his familie having a wife and six children; soe as hee was well neare ruined by the same. Soe the saied Mr. Hales of counsell with Mr. Long concluded that hee well hoped the saied Mr. Long should have reparation for all his sufferings and especiallie from Mr. Ashburnham. Divers of the saied particulars weere at this time proved but not all, and other matters insisted on which equallie concerned Mr. Stroud and others with Mr. Long and therfore I omitted it, desiring to take the matter entire together.

March 17, Wednesday, 1640.

Richard Stroud and 4 others that weere to bee naturalized came into the Howse and tooke the oaths of allegiance and supremacie.

A motion was made that the matter of Mr. Wingats election for one of the burgesses of St. Albans might bee referred to Sir Lewes Dives Committee, but it was denied as being propper for the Committee of Priviledges to heere it, before whome it depended.

An Act for the alteration of the Estate and Tenure of some lands within the parish of Fulham in the Countie of Middlesex held of the Lorde Bishop of London, as of his mannour of Fulham. Some spake against the Bill to have dashed it, because they conceived Sir Nicholas Crispe to bee a delinquent. Soe it being a bill that had past the Lords, the Speaker putt the question whether it should bee committed or not. And ther was some doubt whether the I's or the Noes weere the greater. Divers spake to it.

I stood upp and saied that the I's weere the greater number; but the Noes weere the louder, which made some laugh, and soon after the Noes yeilded it.

Then the Howse beganne to name a Committee but I stood upp and moved that to save time it might bee committed to the Committee in the Marquesse of Winchesters bill: which the Howse well approved and assented unto.

Sir Philip Stapleton after much dispute and divers interruptions moved that wheereas some few had adiourned the Committee for the Jurisdiction of the Court of Yorke yesterday in the afternoone (of which Mr. Saint Johns the Kings Sollicitor was one) to that day three weekes; it might bee ordered that the saied Committee might meete on friday next at the usuall place: which after some debate was ordered accordinglie.[1]

Mr. Pymme moved that ther weere some six marchants that had conveied much monies out of the kingdome, and desired that they might bee sent for, but hee wished that ther names might for the present bee con-
f. 327a] cealed least they should runne away;[2] and soe it was the sence

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[1] "Sir Phillip Stapleton moved that whereas the committee for the jurisdiccion of Yorke had given divers dayes for the councell to make good their power and the legallity thereof, soe they fayling therein, their was yesterday peremptorily given for the ending of it, and they procureinge some of the committee to meete yesterday before any of the Yorkeshire men came, and gave 3 weeks day unknowinge to them, but rather sorrup[ti]tiously gotten.

"Sir Henry Mildmay said that he was glad to see a younge man soe able to speake to the orders of the house, which was Mr. Coventry whoe would have interrupted Sir Phillip Stappleton but with much debate it was ordered that the former order for 3 weeks should be disanulled, and peremptorily to make answeare upon Friday." Moore, f. 331.

[2] "And desyred that Mr. Speakers warrant should issue forth to apprehend them to cause them to put in securitie." Moore, f. 332.

"James Bowden with 3 other strangers have transported goulde." Harl. 1601, f. 48 *verso*.

"Hee desired a warrant might bee speedily issued to apprehend them, least they should bee gone ere they gave security.

"Mr. Glyn liked nott that upon a bare Information, any man should bee sent for as an offendor, nothing yett of offence being prooved against him.

"Mr. Pim said, That in all originall causes it was ordinarie to send for persons and cause them to give security of their appearance.

"Mr. Whitehead said, It was the rule of the house, and wee had often used it, to send for men as offendors, upon information of any member of the house.

"Mr. Speaker saide, That hee did issue 3 writtes as processe. 1, A summons. 2, A warrant to take persons into ther Custody, for which the Serjant had noe fees. 3, An Attachment to take offendors, and then as long as they were in Custody they paid accustomable Fees." Peyton, f. 100. Peyton has just returned from an absence of two weeks and resumed his journal.

of the Howse that the saied Mr. Pymme and some others should consider of it; and make reporte to the Howse what they thought of it.[3] And soe they withdrew presentlie.

Mr. Nathaniel Fynes was sent upp to desire a free Conference with the Lords by a Committee of both Howses in the painted chamber concerning the Irish armie and the removing of popish recusants from the Court when it might stande with ther Lordships conveniencie.

Mr. Treasurour moved that wee might fall upon the debate of the great busines of the providing for the navie, and that the Howse might bee resolved to that end into a grand Committee that wee might the moore freelie debate it; and soon after according to the saied motion Mr. Prideaux came into the Clarkes chaire after the Speaker had left his chaire.

Mr. Nathaniel Fynes returning from the Lords the Speaker soon after resumed his chaire and Mr. Prideaux left the Clarkes chaire and then the saied Mr. Fynes made report, that the Lords would give us a meeting presentlie.

Therupon divers members of the Howse went to the saied conference but I staied behinde.[4] It was managed by Sir Walter Earle and Mr. Reynolds. The first insisting on our desire that the new Irish armie might bee disbanded, but that this Howse did not thinke it fitt to intermeddle with anie addition to bee made to the olde armie. Mr Reinolds desired that all Popish Recusants and especiallie Mr. Walter Mountague, Sir Kenelme Digbie, Sir Tobie Matthewes, and Sir John Winter the Queenes Secretarie might bee removed from Court; and insisted cheifelie on the 5 Article of the petition of the Lords and Commons in the Parliament a°. i°. Caroli touching religion which was preferred in London and answeared in Oxford and insisted on the answeare according as I have sett downe the substance of it on yesterday morning. Some of the Lords answeared they would speedilie take it into consideration.

The Conference being ended and the Howse sett againe the Speaker left the chaire and the Howse was resolved into a grand Committee againe, and fell upon the debate of providing monie for the navie.

Sir Henrie Fane the yonger shewed how the navie was unfurnisht, that ther was a present necessitie of setting out 20 shipps. That the whole charge would amount unto 85,000£ but that some 16,000£ or 20,000£ at the most would serve for the present.[5] Soe divers spake that wee should agree to furnish out 20 shipps, and that 20,000£ should be borrowed to that purpose by order of this Howse; and the matter was once or twice upon the putting to the question.[6] Wheerefore I stood upp and saied, That I should bee verie sorrie to putt anie rubb in the way or to retard a busines of so great waight: and would therfore endeavour to sett forward the busines and that in a right way. The navie at this present might well bee compared to an old decaied howse which was speedilie to bee repaired, though the Tenants weere to bee punished for ther wast. The Kings of England had nothing ancientlie to maintaine the guard of the Seas withall but ther Customes and the shipps which weere to bee found by the Coast townes. The number of them was as appeares in the Patent Rolle de a°. 6° E. 1 fiftie seven shipps in number, and they weere to bee furnisht with 1140 men.[7] Wheereupon in the Parliament Rolle de a° 13 E. 3, no. 11mo.[8] when the King required the Commons advice and assistance for the guarding of the Seas, they answeared, that the Sea-townes weere to guard it. And when f. 328a] afterwards againe in Rot. Parliamenti de a°. 20° E. 3, n°. 21°,[9]

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[3] "And it is referred to the Earle of Straffords committee to be presently heard, and to report it to the house." Moore, f. 332.

[4] Though D'Ewes remained behind, he failed to report any business; Moore (332) gives the following:

"Mr. Caples reporte concerninge the marquisse of Winchesters bill, the committee have perused the bill, and hath returned it as fittinge to passe without any alteracion, and that they had a certificate from the lady Savadge and the lord Rivers wherein they certifie that the timber upon the lande is worth more then this lande which the marquisse might sell, and likewise they shewed the bond of 10,000£, soe the bill is to be passed."

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[5] "Sir Henry Vane the yonger stoode up, and declared that their were twenty shipps accustomed to guarde the seas in the somer tyme, and 5 in the winter which are 6 shipps of the second rancke, sixe shipps of the therd Rancke, fower of the forth rancke, and fower pinnaces, which beinge furnished for eight monethes, the cost will amount to 85,000£ at the least. The third rancke of shipps are 600 tunes, and hath 400 men, the 4 rancke 100 men apeece and the pinnaces 60 men. Every man hath iii£ vi^s 8^d apeece which is xx^s a moneth for meate, twenty shillings for wages, and the rest for ware and tare, and that such was the care of the lord admirall, that if this house would take course for the repairinge of it, and secureing of the magazines againe, they conceave they shall neede for the present but 5000£.

"Sir Henry Vane saith that the vittalers chardge will come to 22000£ and he conceaves that if this house will pay him 11000£ in hande, and him 5000£ which is but 16000£, will be sufficient for present monie." Moore, ff. 332-333.

"Sir Henry Vane Junior Treasurer of the Navy mooved for a supply for the Navy: Hee said the usuall proportion of expence was 3£ 6s 8d a man of which 1£ went for Victuall 1£ for wages, and the other 4 nobles for the weare and teare of the shipps, which is to supply agen into the magazine soe muche of the store for shipping as was taken out." Peyton, f. 100.

Harl. 1601 gives Vane's report in great detail but adds little. Vane says: "The Frenche intend a fleet this yeare of 80 sayle"; then makes his proposal for the English fleet, and adds significantly: "We shall loose the regallity of the seas otherwise." Later on, in discussing the details of expense, Vane says that "the wages may be payd at the returne of the shipps." Hence the victualler must be paid 11,000 in hand and the other 11,000 at the "returne of the shipps."

"Our strengthe hath bin in beeinge able to governe the seas. The mony to be raised without mentioninge the shipps at all. Tunne and tunnage in the 8 of Henry 4 the Subsidy of tunnage and poundage granted to merchants to guarde the seas." Harl. 1601, f. 48 *verso*.

[6] "Mr. Crew desyres that their should be noe order entered in our jornall that we should provide shippes, his reason was because of the extraordinary taxacions lately imposed upon this kingdome, for shippinge monie; but would have us to provide monie, but not under the name of shipps." Moore, f. 333.

[7] "1140 armed souldiers: sea-townes." Harl. 164, f. 138a.

[8] *Rot. Parl.* II, 105.

[9] *Ibid.*, 161.

Ther grew a neglect of guarding the seas the Commons petitioned the King to guard the seas at his owne charge: for then ther was no extraordinarie occasion but an ordinarie defence onlie needful for the freedome of traffique and marchandize. But when in the 45 yeare of E. 3[10] ther weere great preparations in France against England (such preparations as wee are now tolde of, but I hoped the French weere our freinds, at least they weere yet soe by leang)[11] then and not before they granted the King a subsidie, which afterwards being often granted in the same manner grew at last to bee called Tonnage and Poundage. Soe as that saied yeare was the first time that ever it was granted. And now when his Majestie hath not onlie received this subsidie of Tonnage and Pondage without law, but hath alsoe received vast summs in another illegall way (I meant Shipp-monie) and hath advanced his customes to an higher rate then ever heeretofore anye of his roial progenitors enioied, wee may well wonder that the Fleete should bee now unprovided for. Valerius Maximus reports that in Rome it was ever observed, that the best publike officers died the poorest men. Scipio Emilianus having been twice Consull and twice triumphed publiquelie, yet it was saied of him when he died, that the people did rather number his victories than his baggs and mannours.[12] And had the Officers that have managed the publike Treasure in our times but taken this course, the Fleete might not onlie have been furnished now with all provisions necessarie, but his Majestie might alsoe have had a great summe in Banke. For in our times men have gotten ther heads to be crowned with coronets, and have in a shorte space heaped upp vast estates.

Soe as now I come to the matter proposed, let us give what monie you please, proportion what number of shipps you please, onlie let us raise the monie out of the subsidie of Tonnage and Poundage and I shall consent. For this is a worke worthie of this day, that wee should both secure the coasts and preserve our liberties, for which the ages to come may thanke us. This is the *Via regia* and the *Via tuta,* the roiall and safe way, out of which if wee turne aside, wee must goe astray. And if wee shall in Parliament raise monie to furnish the navie when his Majestie hath received not onlie all the old revenues of the crowne which anie of his ancestors enioied but extraordinarie assistance alsoe though it weere against law (viz. the Shipp-monie) for the same use and end, wee shall draw a dangerous president upon posteritie. Let a Committee therfore bee speedilie appointed to draw upp a bill of Tonnage and Pondage; perhapps it may yeild moore in a legall way, then it did being taken without law: and for the present if wee thinke monie cannot bee otherwise advanced upon the creditt of it, it may bee for a time granted to the use of these that shall supplie the monie which is not without president. For in Rotulo Parliamenti de a°. 7° et 8°, H. 4 numero 142°,[13] Tonnage and Poundage was granted to certaine marchants to keepe the Seas. And in Rotulo Parliamenti de a°. 31° et 32° H. 6 n°. 41°,[14] Tonnage and Pondage weere granted to certaine Lords for three yeares to guard the Seas. The same course may now alsoe for a time bee putt in practice if it shall bee thought necessarie. And now having shewed this Howse the truth I submitt what I have saied to the consideration of it. The effect of my speech was, that it whollie almost turned the sence and f. 329a] vote of the Howse excepting the Courtiers and some few besides. For two or three who spake next after mee agreed to what I had proposed,[15] desiring wee might advance monie upon the creditt of the Bill of Tonnage and Poundage.

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[10] *Rot. Parl.,* 303-304.

[11] Probably *leaning.*

[12] In the midst of the notes of a preceding day D'Ewes has inserted either his preparatory notes for this classical passage or part of his speech. He there adds: "Valerius after 3 Consulshipps passed over, and a frugall course of living died not much wealthier then his [*blank*]. And Boethius saieth of the great Scipio that notwithstanding his famous victories in Spaine yett hee enriched not himselfe." Harl. 164, f. 137a.

D'Ewes has looked over Moore's notes for this speech (f. 333), made two minor corrections, and assigned the speech to himself.

Mr. Pymme desired hee might give an account of the busines in which hee was a little before imploied.[16] Soe Mr. Prideaux went out of the Clarkes chaire and Mr. Speaker returned to his chaire. Soe hee enformed the Howse that hee was enformed by verie credible witnesses that fowre marchant strangers had conveied much monie out of the kingdome. And therfore desired presentlie to have a warrant to attach ther persons which hee had:[17] and the warrant was directed to have them[18] brought before the Earle of Straffords Committee to examine of which the saied Mr. Pymme was one.

A Message was sent from the Lords by Serjeant Ayliffe and Sir Robert Rich one of the Masters of the Chancerie, which was delivered by the same Serjeant, viz. That ther Lordships desired a conference presentlie by a Committee of both Howses in the painted chamber touching the busines of the two Kingdomes if it might stand with the conveniencie of this Howse.

The messengers being withdrawen it was awhile disputed, in respect of the great busines of the navie then in debate amongst us whether wee should give ther Lordships a meeting presentlie or not; but at last it was concluded that wee should meete presentlie. And the messengers being againe called in, it was accordinglie related to them by the Speaker. The same messengers being departed; the Lorde Digbie and others[19] were named Reporters, and soe wee went divers of us to the saied Conference.

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[13] *Rot. Parl.* III, 602.

[14] *Rot. Parl.* V, 244-245.

[15] "Agreed to mee in the maine." Harl. 164, f. 138b.

[16] "Mr. Pim comeinge in declared to Mr. Prideaux that he desyred Mr. Speaker to resume the chaire, for except there were speedy course taken the parties who he formerly declared had conveyed monies forth of this Kingdome were strangers, and would be gone except some course taken for staying of them." Moore, f. 333.

[17] "Hee was alsoe to have 4 witnesses summoned." Harl. 164, f. 138b.

[18] For the names see C.J. II, 106.

William Viscount Say and Seale beganne the Conference and saied, That the Scottish Commissioners had delivered a paper of great consequence to our Commissioners.[20]

The Earle of Bristow saied that hee needed say nothing but only deliver the same paper to bee read; and soe hee gave it to the Lord Viscount Savile who read it accordinglie as followeth.[21]

In the midst of other matters necessitie constraines us to shew your Lordships that of fowrescore thousand pounds and above of the monies appointed for the reliefe of the northren Counties ther is noe moore paied then 18000£. The cuntrie people of those Counties have trusted the souldiers as long as they are become wearie and unable to furnish them ther cattle and victuall being soe farre exhausted and wasted as it is scarce able to entertaine themselves. The markets are decaied because ther is noe monies to buy ther commodities and they are become so deare that noe sort of victualls are solde but at a double rate: and which is hardest of all the armie is stinted by the Articles of Cessation to stay within those two Counties whose provision is all spent expecting from time to time the paiment of those monies which weere promised for ther releife; and are reduced to such extremitie as they must either starve or (soare against ther will) breake ther limited bounds, unles some speedie course bee taken for ther moore tymous paiment; which wee most earnestlie entreate your Lordships to represent to the Parliament, that soe soon as may bee the arreares f. 330a] may bee paied. And because the continued paiment of the monthlie summe for the releife of the Northren Counties is a burden to the Kingdome of England, our armie is a trouble to the Counties wheere they reside, our charges of entertaining our armie (besides what is allowed from England) is exceeding great, and our losses and preiudice through absence and neglect of our affaires not small. Therfore that all evills and troubles of both kingdomes may bee removed, it is our earnest desire that the Parliament would bee pleased to determine the time and manner of paiment of the 300,000£ which they weere pleased to grant towards the Releife of ther brethren, that ther may be no lett about this when matters shalbe drawing towards an end; and that his Majestie and they may give order for accelerating matters in the treatie; that the peace being concluded England may bee eased of the burthen of two armies and wee may returne to our owne homes, which is our earnest desire. 16 March 1640.

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[19] *Cf.* C.J. II, 106.

[20] "Then the reporters comeing from the lords the lord Digbie began as followeth. The lord Say began, and said their was a paper of great importance delivered by the Scottish commissioners to our commissioners." Moore, f. 334.

[21] The petition is word for word the same as in L.J. IV, 187, except for errors in copying.

The Earle of Bristow after the paper was read by the Lord Savile, spake shortelie and saied, that wee now saw the Scotts earnest desire to have an end of the treatie, that they earnestlie desired them to presse the Parliament for expediting the matter; and that if anie thing should intervene contrarie to our expectations, it was our owne faults.

After the conference ended and our returne to the Howse the Speaker resumed his chaire, and soon after the LORDE DIGBIE sonne of the saied Earle of Bristow made report to the Howse of the saied conference; and the Clarke read the saied paper in the Howse which the Lorde Savile had read at the saied conference: but wee laied aside the further debate of it at this time, and it was ordered that wee should fall upon the debate of it too morrow morning.[22]

The Speaker left the chaire, and Mr. Prideaux resumed againe the clarkes chaire, and soe wee fell upon the debate of providing for the navie which wee had laied aside upon the former message.

Harl. 164, f. 139a] Sir Sidney Mountague beganne and moved to give two subsidies granted etc. But this motion was generallie distasted and divers spake accordinglie as I had at first propounded that wee should raise it out of the bill of Tonnage and Poundage; and soe the whole sence of the Howse ranne. The onlie doubt was to whome the bill of Tonnage and Poundage should bee granted; whether to Commissioners for a time or to the King at first. Another question grew of whome wee should borrow whether of the Customers or not:[23] and some would have a Committee named to treate therof with the saied Customers. This held a long debate and at last I moved that [*blank*]

Wee all agreed in the summe of 20,000£ and in the necessitie of it onlie the difference was by what meanes wee should attaine to it: whether wee should goe over the bridge or goe round about; that is by giving securitie by the usuall and ancient way of Tonnage and Poundage or by some other. I conceived that I should propound a way to satisfie all the discrepancie of opinions and that was not to meddle with the customers our selves, but to desire the Treasurour of the Navie (Sir William Russell) to provide the saied monie who was a good freeholder etc. That hee to borrow the 20,000£ of whome hee would, and to bee repaied it out of the first monies that should come in upon the bill of Tonnage and Poundage.

Soe after some debate the House having pitched on this resolution [*illegible*] rose.

Post Meridiem.

Committee touching Monopolies of which I was.[24]

One Mr. John Browne etc. Mr. Browne had one Patent to cast iron ordinance alone, and another Patent to cast iron ware alone.

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[22] "At 8 of the clocke." Harl. 164, f. 139a.

[23] "Sir Hugh Chomeley said that Sir John Nulls, and Sir Job Arbie would lende soe much monies." Moore, f. 335.

"A million hath byn spent uppon the navy within this 5 years. Sir John Nulles and Sir Jobe Harvy [Harby] are Customers new come in are willinge to raise the present mony if they may be secured. Presently to set our selves to passe the bill of tunnage and poundage which may be donne in few dayes. 30 thousand pounde due the last yeare not yet payd." Harl. 1601, f. 48 *verso*.

[24] Last four words in cipher.

3 E. 4, cap. 4,[25] 1 R. 3, cap. 12,[26] 33 H. 8, c. 7.[27] Against bringing in Manufactures which are made heere.

A speedie way to make iron Ordinance of equall use with brasse. Hee cast 500 peices of iron ordinance in 3 months. Till hee undertooke it, many workemen went to the Swedes etc. This Mr. Browne had a patent to make brasse Ordinance alone. This was a Monopolie.

Secondlie his sole casting of Iron Wares to bee a Monopolie.

3dly voted on the Question. That the Committee thinkes fitt that the importation of cast iron potts bee prohibited by a statute or otherwise.

Harl. 162, f. 332a] March 18, Thursday, 1640.

An Act to prevent the danger that may happen by Popish Recusants was read 1ª vice, One other Act[1] of noe great moment was read before I came.[2]

Mr. Whistler brought in the new Bill which had been drawen for the Reformation of the mistakes in the old Bill of fowre subsidies, with divers amendments and additions, which being all read twice, and some debate that arose being ended, the saied bill with all those additions and amendments weere upon the question ordered to bee engrossed.

The Petition of Thomas Knevet and William Downes marchants was read, touching the breaking upp of ther warehowses and taking ther tabacco from him. Soe the petition was committed to the Committee for the Customers to examine the matter of fact and to report it to the Howse. Viz. It was soe ordered.

Ordered that the matter touching the fowre marchant strangers that had conveied the golde of the kingdome away was referred to the Committee touching the Kings armie to call them before them, and to take such securitie[3] for ther future appearance as they should thinke reasonable and soe to examine the whole matter; and they weere to meete on Saturday next at two of the clocke in the Court of wards.

Ordered that the Committee appointed to draw upp the Earle of Straffords charge should attend constantlie upon the busines of preparing Breviats for the Triall. And that none of the Lawyers of that Committee should bee absent without the speciall leave of the Howse.

A petition from Densil Hollis Esquire a member of this Howse was preferred by Mr. Glynne, the praier of it was, that wheereas hee had been long in suite in the Court of wardes with Sir Anthonie Ashley Cowper and was now drawing to a conclusion; but the saied Sir Anthonie was now choosen a member of this Howse being yet under age and so unfitt to sitt in this Howse, and therfore it was desired that hee might not bee admitted. But this petition was opposed by divers because there weere many in the Howse under age;[4] And soe at the present it was neither reiected nor further proceeded in.[5]

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[25] *Stat. of the Realm,* II, 397.

[26] *Ibid.,* 495.

[27] *Ibid.,* III, 836. This act was against the exportation of brass.

[1] An Act for the suppressing of the great increase of cottages and inmates in cities, towns corporate, and ancient borough and market towns. C.J. II, 106.

[2] This paragraph and the four following are almost identical with those in Moore and were probably taken by D'Ewes from Moore's Journal.

[3] 10,000£ a man. C.J. II, 106.

Then wee returned to the debate of the great busines of the Navie wheere wee left yesterday morning and the Speaker left the chaire and Mr. Prideaux againe resumed the chaire which hee had possessed yesterday. Mr. Treasurour begann and wished that wee might espetiallie pitch upon some speedie way to raise monies for the furnishing of the navie. Sir Henrie Fane the yonger sonne to the same Mr. Treasurour shewed that hee was with Sir William Russell the Treasurour of the Navie, who made only a slight offer to bee readie to use his credit to provide what monies hee could.[6] Divers then moved to have one or two subsidies granted,[7] but the full sence of the Howse except a few was to have the bill of Tonnage and Pondage to bee the onlie true way to advance the furnishing of the Navie. Some alsoe made a distinction betweene a subsidie and Tonnage and Pondage.

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[4] In 1621 Mr. Weston in discussing the bill for elections then before the house thought that no knight or burgess chosen should be under 21 years. C.J. I, 650.

In 1624 Sir Edward Coke said: "Many under the age of 21 years sit here by connivancy, but if questioned, would be put out." C.J. I, 681.

See Shaftesbury's Fragment of Autobiography in Christie, *Memoirs, Letters and Speeches of Anthony Ashley Cooper . . . from his Birth to the Restoration* (1859), 41-42. See also Christie's footnote on p. 42, a footnote which throws some light on the politics of keeping people out of parliament.

[5] "Then came this letter followinge from Sir John Crane [Sir William Russell *crossed out*] and sent to Sir Henry Vane *in hæc verba.*

"Sir Henry Vane. In answeare to the note you gave me yesterday in the afternoone I pray represent to the grand committee the particulars followinge *videlicet.*

"His Majesties allowance for 3,060 seamen 224 daies being 8 moneths is as followeth.

"Biscett 685,440 lb. which will be 2,040 quarters of wheate.

"Beare—2,856 tunnes.

"Beefe—195,840 pcs. of 2 lb. which will be 800 oxen.

"Porke—97,920 pcs. of 2 lb. which will be 2000 swine.

"Pease—3,060 bushels beinge 382 quarters—½.

"Fish—30,600 fishes

"Butter—30,600 lb. being 562 ferkins.

"Cheese—61,200 lb.

"Monies to provide necessaries vi^{C} xii^{f} [612£].

"The proportion whereof of beefe, porke, and Caske is soe great, and the season of the yeare soe farr past, that I dare not undertake the service.

"Yet tis probable that the service may be performed within 16 weeks, after there shall be order given for the same, if extremitie of hott whether proves noe hinderance thereunto. As the rat[e]s are now I shall not be able to doe it at any contracted rate of 8^{d} ot a man per diem, therefore if it may seem reasonable, I had rather doe it upon accompte then otherwise.

"But if my service may be acceptable for a smaller proporcion, I will undertake to have victualls for 1000, or 1200 men for 6 monethes ready to be sent unto the shipps, that shall be sent forth, within one moneth after I shall have warrant for the same accordinge to my contracte with his Majestie: provided that I may have the one half of the monies that the service shall amount unto paid me in hand and the residue at the expiracion of the said moneths.

"Your servant
"John Crane.
17 March 1640" Moore, f. 336.

I stood upp and spake, That if wee entered upon anie other way for the suppliing and furnishing the Navie then by Tonnage and Poundage, wee should like a sicke man turne ourselves on all sides without finding ease. Nay all other remedies would prove but like cold water to a burning fever which being drunke might give some present helpe, but would not remove the maladie. The onlie living spring that must successivelie supplie the Navie is Tonnage and Pondage. And I wonder to heare anie man desird a subsidie to bee granted as if Tonnage and Pondage weere some other thing. That is a subsidie it selfe and such a subsidie for which the Kings of England weere wont to give ther people ther Grand remerciement; and by which the people of England weere wont to expresse not onlie ther love and loialtie but ther bountie alsoe to ther Soveraignes. And in the Parliament Rolle de a°. 46° E. 3, n°. 14°[8] (I should have saied n°. 15°) the words f. 333a] of the verie Recorde are that they granted to the King *un autiel subsidie,* by which verie word of a subsidie singlie Tonnage and Poundage was granted for the safeguarding of the Seas. If then wee passe this bill ther will bee as full and as propper a way and meanes setled to advance monies upon as cann possiblie be desired. And it was verie much to bee admired how the navie was at this time unfurnisht, soe much monie having been latelie received by and under couler of Tonnage and Pondage and other illegall waies. I hoped Sir William Russel the Treasurour of the navie could well discharge himselfe of what hee had received and yet it would bee a verie difficult matter to iudge of his accounts. But being a man of soe great an estate as hee is and all purchaced, and one alsoe through whose default we may iustlie conceive the navie is unprovided, it will doubtles bee a worke worthie of himselfe to advance 20,000£ for the present necessitie upon his owne creditt for which hee shall bee secured out of the first monies that shall bee received. Nor did I doubt but upon a second motion made to him hee would give us a better answeare then upon our first sending to him. Soe I wished that the bill of subsidie of Tonnage and Poundage might presentlie be gone in hand withall to bee drawen, and that wee might by one and the same bill grant it to certaine commissioners for a yeare and then that it should cease for a month, and afterwards to bee granted to the King for his life.

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[6] "Sir William Russell is willinge to provide 5 or 6000£ for the settinge out of 20 shipps, if he may have a foundation of creddit from what is in arreare." Harl. 1601, f. 49.

[7] "The Lord Digby and his sid[e] stoode for one subsidie." Moore, f. 337. This is the first explicit statement in any of the diaries regarding the formation of groups or parties.

[8] *Rot. Parl.* II, 310.

Divers spake after mee and soe the sence of the Howse after long debate at last was that wee should grant the subsidie of Tonnage and Pondage to the King for three yeares; wheereupon I drew a question to bee putt in the Howse which with verie little alteration was accordinglie putt by Mr. Prideaux in manner and forme following.

As many as are of opinion that a bill shall bee drawen for the granting of a subsidie of Tonnage and Pondage for three yeares according to such a booke of rates as shall bee agreed upon by this Howse let them say I. And it was answeared with a generall affirmative. And it was accordinglie ordered in the grand Committee.

Mr. Prideaux left the Clarkes chaire, and the Speaker and the saied Clarke resumed ther owne chaires.

Divers called on Mr. Prideaux to make the reporte, of what wee had voted at the Committee.

Harl. 164, f. 139b] Mr. Whitlocke.[9]

Mr. John Gore[10] a captaine of the Kings armie was a materiall witnesse, to bee sent for as a delinquent foorthwith, by the serjeant etc.[11]

Ordered etc.

2dly ordered that as many Commoners (etc.) as are to bee witnesses at the Earl of Straffords busines and either have departed or shall departe out of towne without licence of the saied Committee it shall bee interpreted as a great contempt to this Howse.

Then Mr. Prideaux made the Report of what had been done at the Committee and wee voted the same in the Howse.

The Committee for the Customers to meete too morrow in the afternoone in the Dutchie chamber to consider of the Booke of rates and to prepare it readie for the Howse.

Then a Committee was named to draw upp the bill of Tonnage and Pondage: and to consider how to advance readie monie for the necessarie furnishing of the navie.[12]

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[9] "And then Mr. Speaker resumeing the chaire before the reporte was made by Mr. Prideaux, Mr. Whitlocke stood up and desyred to speake concerninge the Earle of Straffords chardge." Moore, f. 337.

[10] Gower, according to C.J.

[11] "That the Committee haveinge examined Mr. John Gore, sonne to Sir Thomas Goore and findinge him a materiall witnes against the Earle of Strafford, commanded him to stay till the triall of the said Earle, and he beinge a captaine in the Kings armie, told them that he could not be from his commande, but they told him that if he went away, they would acquainte the house, nevertheless he is gone to a horse race, whereupon he is sent for as a delinquent." Moore, f. 337.

[12] "And to send for the victualer, Treasuror and Trinitie house to see if they will advance for this present service." *Ibid.*

"Secretary Vane. Security to be given out of the bill for tunnage and poundage. A Committy to send this afternoone for the Victualler of the Navy and those of the Trinnity House to note presently that we will passe a bill of Tunnage and Poundage uppon such a booke of rates as shall be aggreed on by this house for the supplyinge of the kinges necessityes. The best way is to give a Subsidy and take of the assignations of a 120 thousand pounde which is now for the kinge, Queene and his children, the bill to be passed for 3 yeares, that the kinge should put a barr to all impositions

And soe it was voted upon the question (as I had advized at the Committee), that such as did lend or advance readie monie for the furnishing of the navie should bee paied out of the saied bill: and then it was added to the saied order. Checquer Chamber two of the clocke this afternoone.[13]

Post Meridiem.

At Sir Lewes Dives Committee Mr. Thomas Coningsbie miscarriages at the election of St. Albons sett foorth. Dr. King a Doctor of Phisicke, Mr. Hix, Mr. Robert Sadler.

William Ellis an attornie about the midst of the polling would have the election determined by the sword and wished that they might goe to it presentlie.

Thomas Dunnel and John Dickenson great sticklers for Mr. Wingate and hee caused the Constable to take one of them away whoe interrupted the election and quarrelled with divers.

Mr. Coningsbie excused all; and soe I being not fullie satisfied staied not to the voting.

Harl. 162, f. 334a] Mar. 19, Friday, 1640.

An Act for the restoring of the bloud of Mr. Mantle: which beeing half read was laied aside because noe bodie could tell whether the King might bee iniuried and preiudiced by it or not: but the bill was not reiected.

The bill touching the crowne lands bought by Sir John Rainie (wollen draper of London) of the King and weere desired to bee confirmed to Sir John Rainie Baronet his sonne, was read 2da vice. But before it was ended Sir John Hotham moved against one Richard Parrat a scandalous minister that hee had preached against the Acts of Parliament in generall of this kingdome with other dangerous matter. Two ministers that heard him preach this sermon in the yeare 1638, came into the Howse and brought the notes of that sermon, which weere delivered to the Clark. Soe hee was sent for as a delinquent.[1] Then was the residue of Sir John Rainies bill read: and the Speaker was opening of it just as I came in to the Howse. Which beeing done Mr. Pymme beganne and saied, it being a bill to passe away the crowne lande wee should bee very tender in medling with it. Others spake that hee had given a valuable consideration, that is the old citizen Mr. Rainie who bought it.

I saied, That wee should bee carefull of preserving the revenue of the crowne, for it had been the course of all Parliaments almost ever since ther weere Parliaments, to make Acts of Resumption to the crowne, after the crowne grew once into want. And ther was never greater neede of it then now when the King was enforced to take out of the verie Tonnage and Pondage it selfe to defray his household charges, for want of the crowne

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only what is in the booke of rates. The revennue to be helde up, turne it or charge it how you will. The bill passed with more restrictions, our cautions, then have bin formerly. The kinges wants above the matter of the navy." Harl. 1601, f. 49.

[13] *Cf.* C.J. II, 107.

[1] "Certaine doctrine delivered by Richard Parrott, preached the 17 of January 1638 affirmed by Mr. James Fox and Mr. John Cock preachers, to be delivered *in hæc verba*. It was preached in trinity church in Kingston upon Hull, he is sent for as a delinquent." Moore, f. 338. Moore reproduces in full this sermon.

lands. Besides for the gentlemans title it selfe, I hoped wee should not allow it in this Howse, for the King made him latelie sheriffe by the title onlie of John Rainie Esq. And whether hee weere a Baronet of the Barmudas, or of Nova Scotia, or old Scotland, I could not tell for I was sure that an English Baronet hee was not. This was a matter together with the new inondation of Baronets during this Parliament worthie in due time to bee taken into our consideration, and to bee remedied.

Soe the Speaker first putt the question upon the Bill for committing it, and ther followed a generall No. Then the Speaker putt the 2d question whether the Bill should bee reiected.

But I stood upp, and enformed him that the 2d question must bee putt touching the engrossing of the saied Bill, and then if that question received a negative the bill was reiected of course.[2] Soe the Speaker putt the 2d question touching the engrossing of the saied bill; which alsoe received a generall negative: and soe the Bill was reiected.

Mr. Hill a member of the Howse being a lawyer and now Reader of Lyons Inne, had licence to read ther.

Mr. Pymme made reporte that a widowes horses being stolen in Ireland one Okellie an Irishman was taken upon suspition to have stollen them; and brought before Mr. Edward Fay, a Justice of peace, who upon examination of the matter discharged Okellie. This Okellie being soe freed did afterwards as is most likelie practice with Sir George Ratcliffe[3] to bring the saied Mr. Fay in question whoe had neare upon 400£ per annum estate. Hee confessed therfore voluntarilie before the Earle of Strafford then Lord Leiftenant of Ireland the same Sir George Ratcliffe and Sir Charles Coote that hee had stollen the saied horses; (yet the saied Okellie was dismissed.)

Mr. Fay in the yeare 1637 was therupon sent for and committed to prison though hee offered a knight and others to become his baile, and was f. 335a] afterwards arrainged before Sir James Barrie a Judge in Ireland as if hee had willfullie suffered the saied Okelly to escape. But the Jurie cleared him. Wheereupon the saied Sir James Barrie bound over the saied Jurie to answeare the same in the Castle chamber in Ireland (that is the starre-chamber ther) who weere all ther sentenced to pay 2,000£ apeice, to stand upon a scaffold in Dublin and to acknowledge ther offence and they weere putt out of Commission, being Justices of the Peace and ther testimonies adiudged never to bee of anie worth for the time to come. They remained in prison 16 months. Some weere enforced to pay 400£ apeice, some 200£ and everie one 100£ apeice moore to the Clarke of the Castle-chamber.

It was thus represented to the Committee for the Earle of Strafford and from that Committee Mr. Pymme reported it; and desired, First that Mr.

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[2] See D'Ewes, *Journals of all the Parliaments during . . . Elizabeth,* 17.

[3] See Clarendon, I, 285.

Fay might have reparation and bee sett at large and the iurie alsoe of all the monies they paied for ther fines.[4] And 2^{dly} that this cause should bee transmitted to the Lordes with the Earle of Kildares cause and other causes of Ireland formerlie reported to the Howse.[5] All which was voted upon the question, and ordered accordinglie.

And it was alsoe voted and ordered that the saied Sir James Barrie and Sir Charles Coote the elder should bee sent for as delinquents.[6]

It was likewise resolved upon the question and ordered that this shall bee added to the Earle of Straffords charge.

Mr. Pymme proceeded and made reporte from the same Committee of the Earle of Meaths case. From whome the saied Earle of Strafford had without all couler of law or title wrested 400£ land of yearelie value under pretence of the Kings title; but himselfe and the saied Sir George Ratcliffe doe still enioy the saied lands. And when the saied Earle of Meath had but saied that hee was sorrie to see a man meaner then himselfe made great with his lands and had explained himselfe that hee meant Sir George Ratcliffe therbie; yet hee was enforced to aske forgivenes of the saied Sir George.[7]

This was resolved upon the question to bee transmitted to the Lords with the other causes.

Mr. Pymme reported from the same Committee the Lady Marie Hibbots case being formerlie the widow of Sir Thomas Hibbots and now the wife of the Lord Viscount Nettersfeild. That her husband having bought lande and the writinge being executed hee died before the fine and recoverie could bee perfected. The Leiftenant aforesaied putt on Sir Robert Meredith to pretend a title to the saied land and at the Counsell table in Ireland notwithstanding that the moore voices weere for the Ladie Hibbots, yet hee decreed the land from her to Sir Robert Meredith and ordered besides that shee should pay him 500£ costs; and saied that if hee had knowen shee would have had soe strong a partie ther, hee would have had a partie ther alsoe. And when the saied Ladie refused to yeild upp the saied land or pay the saied five hundred pounds: hee tooke forcible possession of the saied lande: and saied that hee would imprison her till shee had paied the saied summe, and at everie months end double the same, by making it a

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[4] "It is likewise ordered that those parties which were of the Jury and have not paid their fines, or are in prison, are to be released and to have restitution of their monies." Moore, f. 344.

[5] "This to bee transmitted to the Lords with the other five cases of the Earle of Kildare, the Lord Viscount Ely, and the other three." Harl. 164, f. 140a.

[6] ". . . out of Yreland and delinquents for bynding a jury over to the councell boarde for nott fynding a Justyce of peace guilty for the suffering of a fellon to escape." Gawdy, f. 24a.

[7] "And then the Earle of Meath at the Councell Table, saieing that he tooke it ill that a man much inferior to him should be made great by his lands whereupon the Liftenant made him to explaine himselfe, and he declareinge that he meant Sir George Radcliffe was forcest to aske forgivenes." Moore, f. 344.

1,000£ at the first months end 2000£ at the second months end and soe *in infinitum*. This alsoe was voted to bee transmitted to the Lords with the same former causes.[8]

An Act against usurie was read 2 da vice. It was to reduce usurie to 6£ per centum, which occasioned divers to speake against

Harl. 164, f. 140a] And divers spake against it supposing if 6£ per cent. it would decay trade etc.[9] but moore for it etc. Soe it was committed etc. all that will come etc. Court of Wards too morrow in the afternoone.

Sir John Hotham and Mr. Treasurour moved that wee might goe on with the busines of the day etc. Northren parts etc.

And soe the Scottish paper was read.

Sir Henry Anderson shewed the miserable calamitie of the Northren parts, and especiallie of Newcastle etc.[10] Sir Henry Mildmay moved wee might know sums due.

Sir John Hotham. 250,000£ will bee due to both armies Ap. 16. 175,000£ will bee due to Kings armie Apr. 16.

The Scotts shewed that 85,000£ was due to them the 16 of this month, 25,000£ due moore Apr. 16. Betwixt three and fowre hundred thousand pounds to bee raised presentlie.

The Scotts would bee gone if but 100,000£ downe, and time for the other 200,000£. Hee lastlie moved that the Howse might bee resolved into a grand Committee to consider of raising monies for the Kings armie which was ordered and the Speaker left the chaire. And Mr Hide came in to the Clarkes chaire.

Then wee fell into debate by what meanes to raise monies.

Some would have had it comsidered in the whole others by parts. Some would have had the clergies commission to grant 6 subsidies to bee hastened, others would have had new subsidies to bee granted. Some would have the two subsidies raised in the value which wee weere now to grant. It was shewed that Sir William Udall wanted 4,000£ of the 50,000£ to bee sent to the Kings armie and the Scotts, 7,000£ of the 25,000£ to bee sent to ther armie.[11] After long debate wee could pitch upon noe certaine way to advance present monies.

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[8] For an account of this case see Rushworth, VIII, 221-227.

[9] "After some debate, some for the present nott liking it and others avowing the convenience of it, The Bill for reducing the rate of usurie to sixe pounds per centum was committed: and ordered *That Merchants nott usurers should bee sent for to the Committee for to receive their opinions ect.*

"Mr. Trelawney said, that the Dutche did encrease in Trade because they had great rivers which went up high into Germany: where they vented great store of Commodities, and therefore it is nott absolutely to bee imputed to their low rate of usury that they flourishe soe muche in Trade. For France hath ever held a lower rate of Usury then wee, and yett it will nott bee granted that they can compare with us for trade." Peyton, f. 101.

"Mr. Trelanye that wee have nott mony enoughe yn thys kingdome of our owne to dryve our trade and that yf thys pass ytt will cause the straungers to call away there mony and so make a scarceytye." Gawdy, f. 24b.

"It is conceived that this bill will make strangers withdrawe their monyes. The lower mony is brought the more will usurers lay out their mony uppon landes if they cannot have so much use for their mony it will make men falle to tradinge. Increase of trade and improvement of our landes 2 in the hundred taken from the merchant will incourage them. Many merchants that are growne riche leave their tradinge and falle to usury as beeinge more easy and profitable. Men cannot improve their land mony nowe beeinge so highe. The churche and Colledges will have bennefit by it. The use of mony nowe grown faster then woode. Untill this bill worke mony will be more easily had." Harl. 1601, f. 49.

[10] "Sir Henry Anderson. The victualls of the country and all the hay spent; a greate sickness in the country and Scotch army." Harl. 1601, f. 49 *verso*.

1, That Sir Thomas Bar[rington] and Sir Henry Mildmay are desired by the Howse to treate with whome they will about treating with whome they thinke fitt to raise monie upon securitie.

2, That his Majestie bee desired to grant a Commission to the clergie[12] to grant subsidies.

3, That the bill of Subsidies bee hastened and brought in.

This agreed in Committee and Mr. Hide left chaire.

Then hee reported these three, and all resolved on the question and then it was ordered, and Mr. Treasurour and Mr. Comptroller to moove his Majestie.

Sir John Culpepper moved that himselfe and 3 other gentlemen had according to ther promise paied in 4,000£ etc. soe desired it might bee ordered that such members of this Howse as had lent or should lend monie might have a warrant to the Treasurour appointed in the Act etc. to pay in the same.

That Mr. Griffith move the Earl of Warwicke to sett downe a note of what monies hee hath received and by whome (viz. lent by members of this Howse and others etc.)

f. 140b] Post Meridiem.

Mr. Edward Vaughans case brother of Sir Robert Vaughan at grand Committee for Courts of Justice. The saied Sir Robert married the Lord Powys daughter who 6 weekes after her husbands death who had conveied all his lands to his saied brother, fained her selfe to bee brought to bedd of a sonne (which was thought shee gott from some poore bodie) and named him Harbert. The busines was verie tedious and all particulars weere not opened at this time. But the summe was that shee afterwards married Sir James Palmer gott the wardshipp of this suppositious child and with the trained bands gott possession of the lands in Wales being about 2,000£ per annum under that couler and have ever since by the power of the Lorde Powys kept the possession of the same, and the saied Mr. Edward Vahan could never have Justice either in the Court of the Marches of Wales in the Starrechamber or Court of Wardes in England:[13] and this was the summe of all.[14]

Harl. 162, f. 337a] Mar. 20, Saturday, 1640.

Wee mett verie earlie soe as the Speaker was faigne awhile after praiers to sitt neare his chaire expecting companie: and at last before fortie weere come the Speaker tooke his chaire and some shorte motions weere. The Committee for licensing of bookes[1] of which I was had power to meete this afternoone in the Inner Court of Wardes, at two of the clocke.

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[11] "The 6 Subsidyes will come to 360 thousand pounde; we shall be in debt 70 thousand pounde more then the Subsidyes come to by the 16th of Aprill. Sir William Udall hath received 45 thousand pounde.

"Secretary Vane. The 2 subsidies will come to a 120 thousand pounde. A 150 thousand allready. The 4 Subsidyes allredy granted comes to 240 thousand pounde. There hath bin payd in 75 thousand pounde. A 168 thousand pounde we have still to gather of our sixe subsidyes. Mr. Colewell uppon security can bringe in 50,000£ uppon a shorte warninge. The 16th of Marche was sent out a 112 more then the 4 subsedyes comes to. 62 thousand pounde. 25. 5°." Harl. 1601, f. 49 *verso*.

[12] "Convocation." Moore, f. 345.

[13] See above, p. 481, n. 19. See also *Cal. St. P. Dom. 1640-1641*, 505.

[14] The Committee on the charges against Sir Henry Spiller met this afternoon. Verney, 28-29.

[1] "For licensing the printing of books." C.J. II, 108.

A petition from Sir Hamond Strange and some other inhabitants in the Countie of Norfolke complaining of ther salt marshes taken from them was referred to Dr. Thompsons Committee, but was not read.

The Petition of William Widmere[2] gentleman on the behalfe and divers others complaining against Thomas Lane Esquire Recorder of the Burrough of Wycombe in the Countie of Buckingham being alsoe a Justice of the Peace for the same Countie. Shewing that hee had been a great advancer of shipp-monie complained of the sheriffe at Counsell table for being negligent to gather it; advanced the profanation of the sabboath by sportes and games hee countenanced with divers other complaints; was read in the Howse. The saied Mr. Lane was a member of this Howse. The petition was referred to the Committee touching the Judges.

After another shorte motion of little moment, An Act for the suppressing and destroiing of all Turkish, Moorish and other Pyrates was read 1a vice. And it was moved that it might presentlie bee read againe the second time: and the Speaker demanded our consents.

But I stood upp and saied, That I was not against the 2d reading of the saied bill, but that I desired it might bee deferred till the Howse weere fuller, and soe it was laied aside for the time.

An act concerning the limitation and abbreviation of Michaelmas terme being engrost in parchment was read 3a vice and passed the Howse.

This being done upon Mr. Treasuors motion the Speaker quitted the
f. 338a] chaire and Mr. Hide went into the clarkes chaire, and soe the Howse was resolved into a grand committee.

Sir John Hotham delivered in a paper which Mr. Hide read touching what summs weere paied and would bee paiable to the two armies by the 16th day of Aprill ensuing. viz. That the whole paiment is from October 16 last past to the 16 of April next ensuing. The paiment by the treatie begann October 16 aforesaied. The Parliaments paiment November 10 last past. The Scotts have received 75,000£. They are to receive in all 153,000£. Soe ther remaines due to them to cleare that account 78,000£. The whole charge to bee paied to both armies from November 10 to April 16 amounts unto for the maintenance of the Kings armie, the garrisons and the Scotts armie 428,000£. The six subsidies are estimated at 360,000£. Soe as our charge for which wee are alreadie ingaged amounts unto 93,000£ moore then the subsidies aforesaied will advance. Wee have alreadie taken upp but 175,000£ upon the same six subsidies. An 100,000£ is paied to the Kings armie. Still due to all armies 278,000£.[3]

The paper being read long debate followed how wee should borrow monie and of whome: and whether wee should grant new subsidies: but nothing was concluded. At last upon Mr. Martins motion seconded by Sir Walter Earle that wee could not make anie advancement of monies to anie purpose untill iustice weere done upon the Earle of Strafford: Mr. Stroud desired the Speaker to resume his chaire: which hee did, and soe the debate touching matter of supplie was broaken offe abruptlie.[4] And Mr. Hide left the clarkes chaire, into which the saied clarke returned.

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[2] Widucere. C.J. II, 108.

[3] "The house undertooke the paiment of the kings army the 10th of November, of the Scotch army from the 16 of October, 278 thousand pounde. Mr. Collwell hopes to bringe in 40,000£ in a fortnight, he desires the securitye of the 4 Cittizens, he is

Mr. Stroud then moved to know whome this Howse would appoint to manage the evidence at the triall of the Earle of Strafford, for those of the Committee in his busines desired to have the order of the Howse in that particular. After a little dispute it was ordered that the thirteene persons of that committee should out of themselves appoint whome they thought fitt; the saied Sir Walter Earle and Mr. Stroud weere two of those thirteene.

It was further ordered alsoe that Mr. White[5] and Mr. Prideaux two lawyers of the Howse, and anie two besides though they weere not of the Howse might bee appointed by the saied Committee of thirteene to bee present with such as they shall appoint to manage the evidence to take note of what passed and should bee spoaken; and that the saied Mr. White and Mr. Prideaux should afterwards if need weere reporte the same to the Howse.

Sir John Culpepper made report from the Committee that was appointed to veiw the Scaffolds in Westminster, and to consider of the manner of our being ther: that they thought the saied scaffolds sufficientlie under propped to beare the companie that was to sitt on them. That the members should not come first to the Howse, but come immediatelie from ther lodgings to Westminster hall, and that they should all bee ther by eight of the clocke in the morning on monday next. That they should all bring tickets with them subscribed with ther names and the names of the Counties or places for which they serve to bee sett downe. That noe other should sitt intermixed with the members of this Howse, but if anie strangers had gotten the places provided for them, they should remove them. viz. those members of the Howse weere to remove such who had soe placed themselves who weere to stand at each doore to receive the saied tickets,

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confident to bringe in 20,000£ speedily. Lord Warwicke hath receaved 24000£ wherof 16800 of members of this house, of the Aldermen Pennington 8000.

"A 185 thousand pounde we have still creddit for, we should endeavour to that, that so soone as we may to advise with the Lords howe we may have creddit that they may set their shoulders to the worke, the Lords subsidyes. For a 3d parte we shall be in debt 93 thousand pounde more then our 6 subsidyes comes to. That the Lords and we may ioine in to bringe up mony." Harl. 1601, f. 49 *verso*.

[4] It must have been during this debate that the following remarks, reported by Peyton (f. 101), were made. "It was conceived to bee prejudiciall to the discharge of the present disbursements, The Lords falling their subsidies a 3d parte; and might give a bad example to the Gentry of the Kingdome, who were rather wished to raise themselves."

[5] "Mr. White because hee could write shorte hand." *Ibid.*

and that the Howse should appoint such as weere soe to attend, and that f. 339a] convenient places weere to bee reserved for them.[6] That the Serjeant was to attend within the Court and his men without, to obey and execute the commands of such members of the Howse as weere to manage the evidence. That they thought fitt the Speaker should bee present and have a convenient private place to bee provided for him: but that the same should not bee ordered by the Howse. That they had alsoe considered the circumstance of our sitting bare or being covered but they had taken noe resolution therin, but conceived onlie that ther was a great difference wheere wee came as a Howse and wheere wee came as singular members of the Howse in a Committee of the whole Howse. Soe all the saied report, was ordered to bee putt in execution accordinglie, excepting the matter of the scaffolds, the Speakers being ther and the sitting uncovered. And the same Committee who had made the saied reporte weer appointed to looke to the saied doores and Mr. Perd and Sir Robert Pie weer added to them.

This busines being setled some moved that wee should send to the Lords to desire them to sitt in the afternoone because wee might have occasion to treate with them upon matters of great importance: Others moved to send upp a message to the Lordes to desire a conference about our Saving which was brought in by Mr. Whitlocke upon [*blank*] foregoing and then allowed by the Howse.

I moved that wee might first goe upp about the saied saving because it concerned the preserving of the liberties of the Howse; and that the matter concerning the Lords sitting in the afternoone [*blank*]

Harl. 164, f. 141a] Then Resolved upon question that wee should send to the Lords to sitt in the afternoone: Mr. Bellasis went.[7]

Then Earl of Straffords petition read[8] Divers spake [*illegible cipher*].

Sir Thomas Jermin Sir Arthur Ingram the elder, Sir William Pennyman baronet, Sir Robert Pie, Sir George Wentworth Mr. Hugh Potter.[9]

Then question arose whether wee should order the saied members to bee ther or not; much debate, whether to order it.

I spake that noe order; for it was ordered alreadie that the members should bee ther at eight. MR. PRICE *Hodie tibi cras mihi,* some to the barre. I saied etc. nimble speech, hee did but iudge himselfe.

Mr. Cravens 1,000£ to bee paied to Sir William Udall.

At last entred that his petition read and that the members of this Howse had leave to doe as they pleased.

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[6] "If anie strangers or members disobey to report it." Harl. 164, f. 140b.

[7] He returned with a response that the Lords would sit. C.J. II, 109.

[8] "The . . . petition . . . wherein he desires that he may make use of some members of this House nominated in his Petition as Witnesses." C.J. II, 109.

"A debate whether it should be read or noe. Mr. Holles avowinge it to be all written with his owne hande it was reade." Harl. 1601, f. 50.

[9] *Cf.* Peyton, f. 102; Gawdy, ff. 25b-26a. These are the witnesses requested by Strafford.

Harl. 162, f. 340a] Post Meridiem.

The Speaker came to the Howse a little after two of the clocke, and it was moved, that wee should send to the Lords to have a free conference about the Saving brought in by Mr. Whitlocke upon [*blank*] foregoing. I saied that I would not oppose the motion but supposed the Lords weere not yet sett and therfore wee were for awhile to deferre the message. And it was ordered after a few others had spoaken to this matter of having a conference that assoon as the Lords weere sett wee should send upp a message about the same.

And the saied order being read by the clarke the Speaker left the chaire, and Mr. Hide came into the Clarkes chaire. Assoon as hee was sett hee shewed us that it was estimated that the subsidies would amount unto 360,000£ viz. the 4 subsidies alreadie granted and the two subsidies to bee granted. Of this wee had borrowed 175,000£ and wee might still borrow upon the same about 178,000£. And that hee thought was the present busines for us to enter upon to see by what meanes wee might borrow the same. Divers motions weere made for the whole Howse or for severall members of the same to ingage themselves all which came to nothing. Soe it was at last proposed that wee should name a Committee to prepare heads to treate with the Lords about the Scottish paper sent downe to us from them, about providing monies to pay the Scottish armie.

Mr. Speaker resumed the chaire, and Mr. Hide left the clarkes chaire. And then Mr. Hide made reporte of what had been proposed at the Committee. After which the Speaker put the question, whether wee should name a Committee to prepare heads to conferre with the Lords about the Scottish paper sent downe to us, and about providing monies for the safetie of the kingdome. Some weere named for the Committee and my selfe amongst others. Yet at the present noe names weere read that had been proposed; but Mr. Martin was sent away of a message to the Lords to
f. 341a] desire a free Conference by a select Committee of both Howses which had formerlie mett about the Earle of Straffords triall when it might stand with ther Lordships conveniencie.

Assoon as Mr. Martin was departed, Mr. Hamden stood upp and moved, That the Committee appointed concerning the Earle of Strafford desired the direction of the Howse in case the Lordes should examine anie of the witnesses to bee produced on the Earle of Straffords behalfe upon oath. Divers spake to it, and it was generallie conceived that though the saied witnesses had been first sworne for the King against the partie impeached, yet the examining of them was noe preiudice to the cause unles they weere either new sworne or examined with relation unto and mention of the former oath. But nothing was at the present ordered, till some halfe an howre after.

Mr. Martin returning shewed that the Lordes answeare was, that they would give us a meeting presentlie by the select Committee of ther Howse; in the painted chamber.

Mr. Whitlocke being one of the select Committee of this Howse was appointed to read the saied saving.

Harl. 164, f. 141a] Mr. Whitlocke went to manage it etc. and carried the saving with him. I was one of the Committee of this Howse: and went out but being interrupted the free Conference was done.

Mr Whitlocke returned and shewed that hee delivered the paper to the Earle of Bristow who saied that hee would report it to the Lords.

Being returned the order was read which was made touching Mr. Hamdens motion etc. That if the Earle of Straffords witnesses had been sworne or should bee sworne at the barre in his behalfe our members should give over.

The Committees names weere read and the order was read by which they weere authorized to prepare heads for a Conference with the Lords about the Scottish paper etc. and they withdrew into the Court of Wards.

Richard Bolton Dublin Castle Mar. 3, 1640.[10] John Bishop of Ardagh to answeare heere to a title of land Mar. 4. Teig O Reddy gentleman his complaint in the Howse of Commons in England concerning title of land. The Lords ther in Parliament would not permitt him to come, hee being willing of himselfe to come. It was referred to the Committee for Irish affaires.

Mr. Rowse shewed that when Mr. Wright now Lorde Mayor of London was sheriffe ther was Dr. Leytons studie broaken open and his bookes taken and when hee was told that it was against the law declared in Parliament hee answeared it had been as good that the Parliament had never spoaken at all of the law nor the libertie of the subject.[11]

But nothing was ordered in this busines but it was deferred till the report should bee made of Dr. Leytons case.

Mr. Martin moved that noe new[12] petition or busines might surcease for a fortnight, others called for a month, and soe it was ordered for a month longer from wednesday last when the former fortnight ended, but at last it was ordered for a fortnight.[13]

Then it was moved by divers that some course might bee taken to prepare the charges against the Bishops of Ely and Bath and Wells and against some scandalous Ministers. And it was ordered that an Act should bee prepared against scandalous Ministers[14] and the care of drawing upp the saied bill was committed to Mr Prideaux.[15]

f. 141b] Others moved to have the lesser Committees laied downe againe.

But I stood upp and shewed that I was verie willing that noe new busines should bee entertained; but to lay downe anie Committees wee have found by experience that when wee laied them downe before noe publike busines was therbie advanced. For these lesser Committees soe long as the great ones failed not hindred not them but the truth is the infinites and multitude of busines before each Committee is the cause that the progresse is soe slow. And unles wee could dispatch the reports that alreadie etc. I might bee bold to say that 150 reports at least readie for the Howse: and above 300 petitions of moment yet to heare nor cann these bee ever readie to bee transmitted to the Lords unles wee should sitt heere three yeares; for the witnesses must bee all ther examined over againe. Resolved upon the question that noe petition nor any other new matter should come into the Howse for a month.

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[10] "A letter from Sir Rich. Bolton, Knight, Lord Chancellor of Ireland, and Speaker of the Lord's House there, directed 'To Mr. Speaker of the House of Commons in England,' on the behalf of the Bishop of Ardagh." C.J. II, 109.

[11] "It was Informed that the Lord Maior of London saide, That the Parliament did neither talke of Lawe nor of the liberty of the subiect; which were conceived to bee wordes derogatorie to the dignity and wisedome of Parliaments." Peyton, f. 101.

[12] D'Ewes first wrote *all new,* crossed that out and wrote *noe new petition or.* But it is easy to see what he meant.

[13] *Cf.* C.J. II, 109.

[14] "Upon which Commissions shall bee sent into the Country to examine Scandalls in Ministers." Peyton, f. 102.

[15] *Cf.* C.J. II, 109.

Sir John Strangwaies moved that some consideration might bee had of the knighthood busines and the iudgment upon it in the Exchecquer etc. Referred Iudges Committee to which myselfe and two others weere added.[16]

It was moved that Mr. John Wise one of the knights of Devonshire was latelie deceased and it was desired that a new warrant might goe out for a new election.

The Howse of Commons[17] are verie sensible of the want and extremitie of the Scottish armie and of the two Counties in which they lie as alsoe of the wants and necessities of the Kings armies and of the great burthens and pressures of Yorkeshire.

That for the releife and ease of those armies and Counties the Howse of Commons had granted 4 subsidies and voted two moore, and had used ther uttermost care and credits to advance monie upon the saied subsidies in respect of the great danger of the kingdome. They conceived the saied 6 subsidies would amount unto 300,000£, 175 advanced upon them, above an 120,000£ yet still to bee advanced.

In this great exigent wee desired ther Lordships advice what to doe.

Sir Hugh Cholmelie sent to desire a Conference by a Committee of both howses touching the affaires of both the kingdomes presentlie if it might stand etc.

Then Mr. Hides paper read againe by himselfe standing at the table. And hee and Mr. Treasurour weere appointed to manage the Conference.

Sir Hugh Cholmelie returned and reported the Lords would give us a meeting etc.

Soe Mr. Treasurour Mr. Hide and divers went. I staied.

Awhile after they returned.

Serjeant Wild made a reporte concerning setting out of shipps of a navie from a particular Committee;[18] but it was laied aside for the present.

Sir Ralph Whitfeild one of the Kings Serjeants and Sir Edward Leech a Master of the Chancerie sent with a Message from the Lords that they intended to sitt on monday in the afternoone to consider our last message and desired us to doe the same. Being withdrawen wee resolved to sitt etc. soe being called in the Speaker tolde them soe.[19]

f. 142a] Post Meridiem.

Serieant Wilde went forward with the report begann a little before that the Committee appointed to consider of advancing monies to furnish the Navie had mett that they had agreed of a proportion of Shippes and monies and that Sir William Russell would advance the monies necessarie.

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[16] *Cf.* C.J. II, 109.

[17] Hyde's report from the committee to draw up heads for a free conference.

[18] "They have founde out a way to set out 22 shipps in 6 weeks, 11 of the kinges shipps and 11 of the Trinnity House, 3£ —^{s}, 6^{d} a month the wages of the merchants 8^{d} ob. a day for 1500 for 6 weeks. Iron bounde Casks 520. Tenn thousand pounds and 24000 one hundred and 80£.

"The Victuallers desire to have halfe the mony in hande and the rest at the 6 months ende. Those of the Trinnity House 8000 presently. Sir William Russell will lay downe 6000£ presently, and be ingaged for the 15000£ with Sir Henry Vane, the mony to be reimbursed out of the first mony that comes in by the Tunnage and Pound[age]." Harl. 1601, f. 50.

[19] "Desire to have a bill presently passed for the pressinge men." Harl. 1601, f. 50.

Sir Henry Fane the Yonger and Sir Thomas Barrington shewed that Sir William Russell had only promised if any could tell where money might bee had to ingage his uttermost creddитt to take it upp.

Whereupon it being past six the Howse in respect that the reports contradicted each other laid the busines aside.

The Committee for Tonnage and Poundage was appointed to meete at Mr. Treasurers chamber at Whitehall on Monday morning at seven of the clocke.

APPENDIX A

In Harl. 4277 is to be found a vellum Minute Book of the Committee of Trade for the first months of the Long Parliament, a record that, I think, has not been used. It appears to have been written by someone who acted as a secretary to the Committee. Most of the daybook is in a single hand but there are corrections and memoranda in other hands. On March 16 a change in hand and spelling indicates a new secretary, who did not, however, continue his labors. The remainder of the rather large book is blank.

HARL. 4277.

f. 1] Die Martis x^mo Novemb. 1640

Ordered that Mychaell Meazy, a Messenger Richard Carmarden, and [*blank*] Hubbard Keeper of the Warehouse at the custome house be sent for to attend this Committee, the next day of sittinge.

Alsoe ordered that Mr. Corbet Mr. Vassall, Sir Nath. Barnardiston, and Mr. More, or any two of them shall send for and peruse such records as are in the Exchequer concerninge Mr. Rolls a Member of this house, and alsoe send for and peruse such records as are remayninge in the Court of Star chamber, wherein the sayd Mr. Rolls is likewise concerned, and to report the same to this Committee, and are to meete in the Exchequor Chamber, on Thursday next at two of the clocke.

f. 1*v*] Die Lunae 23° Nov. 1640

Ordered by the house of Commons, the busines concerninge the Lights of Dungennesse and Winterton be referred to the Committee for Trade, and the Parties interested in those Lights to attend the sayd Committee.

The Busines concerninge the Transporteinge of Raw hides and Calve-skins, is referred to the Committee for Trade by the House of Commons. And it is Ordered that those that have any benefitt by those Pattents, or that licence any by authority of those Patents to Trade in the Comodities aforesayd be required to attend the sayd Committee.

f. 2] Die Martis 24^to Nov. 1640

Ordered, that the Patent for the Lights of Dungennesse and Winterton, and that the Patent for the North and South Forelands be forthwith brought into this House, And that Mr. Bullocke and Sir John Meldrome doe attend this Committee, on this day 7 night; and notice to be given to Mr. Bullocke hereof. Mr. Sutton a Member of this house hath undertaken to give Sir John Meldrom notice.

Ordered alsoe that Mr. Gerratt Gower doe Attend at the same time.

Ordered that the Commission concerninge the Fyners of Gold and Silver, and a Counterpart of the Indenture touchinge the same, be forthwith brought into this house, And the parties complayned of by the sayd Fyners, are Ordered to attend this day 7 night. And Mr. Johnson Councellor at Lawe, is Ordered to attend at the same time, and to bringe in the Sayd Commission and Indenture.

And a Warrant to yssue forth for parties Witnesses Writings or Records, that may conduce to the matter in question.

Ordered, the SubCommittee concerning Mr. Rolls to meete to morrow in the afternoone, at two of the Clocke in the Exchequer Chamber.

Ordered, that a Report be made to the house, that the opinion of this committee is, that all proceedings in the Exchequer, uppon the Bonds entred into by Samuell f. 2*v*] Warner and others, for the matters complained of in their Petition be stayed, till the busines be further setled by this house.

Ordered, that Sir John Nulls and Mr. Knevitt doe attend this Committee, this day 7 night, to make answere to such matters, as shalbe obiected against them on the behalfe of Samuell Warner and others, and to shew by what authority they have taken Bonds, of the sayd Warner and others.

Ordered, that the Matter concerninge the Petticion of Clothiers for Worcestershire be further heard on this day 7 night.

Memorandum [*in different hand*] That the Petition presented by Tho. White and William Steevenson the 24 Nov. 1640 was redelivered to the sayd Steevenson the 11th of Febr. 1640.

f. 3] Die Martis 1mo Decemb. 1640

Ordered, that Sir John Meldron Knight and Mr. Bullocke shall on this day fortnight, attend this house to mainteyne the validity of the Patents brought in by them, by their Councell, and in the meane time, a charge in writinge may be prepared, by those members of this house, that complaine of the sayd Patents.

Ordered, that the Ballance of Trade for these three last yeares, recorded at the custome house, and in the Court of Exchequor be brought unto this Committee this day 7 night by such officers as have the same in custody.

Memorandum, to direct your Warrant uppon this Order to the officers at the custome house, and to the officers in the Exchequer, and send it by the Sergeants man.

The Fynors of Gold were heard this day by their Councell uppon theyre Petition.

Ordered, a Report be made to the house that in regard this Committee is possessed of the complaints of the Fyners and have heard them by their Councell, That the opinion of the Committee is that the Petition of the Wyerdrawers against the Gold fyners now remayninge before the Committee of greevances shalbe delivered over to this Committee to be heard.

Ordered, that Joseph Raleigh, shall on the third Tuesday, next terme, make good his Petition, and have Warrant for Parties, witnesses, writings and Records, and to give convenient notice to the Contrary party.

f. 3*v*] Die Martis, 8vo Decembr. 1640

Ordered, that Mr. Lenthall *et Alii* shall on this day fortnight, make good their Petition, and have Warrant to send for Parties, Witnesses, writings, and Records, that may conduce to the matter complayned of, and to give notice to the Adverse party.

Ordered, that a Report be made to the house, that the opinion of this committee is, that the Pott-ashes complayned of in the Eastland-Merchants Petition, be forthwith taken upp and Landed in safety because they are perishable Goods, and in regard of the great Burthen: layd uppon this comodity, till the Right be decyded in this house.

Hugh Hubbart examined on Mr. Rolls behalfe, saith, he is a warehouse keeper (under the Collector) at the custome house, Sir Abraham Dawes was collector, now Sir Thomas Dawes is collector.

Confesseth there is Goods of Mr. Rolls in the custome house: 2 bayles of silke, which bayles came there in his predecessors time, and found those goods there, at this examinants comminge thither: which Sir Abraham Dawes gave Order to this examinant to detaine for the custome and impost due unto the Kinge.

Sayeth there were other Goods of Mr. Rolls about 5 bailes of silke and as far as this Deponent could conceive the whole quantity was received, and the whole delivered backe, unbroken in the State they came into the Warehouse, in the same State they were delivered out.

Ordered, that the Gold wyerdrawers shall on this day 7 night make good their Petition, and have Warrant for Parties, witnesses, Pattents or grants complayned of, writ- f. 4] ings or Records that may conduce to this busines, and notice to be given to the Adverse partie.

Memorandum. The Principall parties to subscribe to the Petition this day 7 night before entry to heareinge.

Ordered, that Mr. Warner shall attend this day 7 night and the matter complayned of by him to be peremptorily heard: And Sir John Nulls is Ordered to attend at the same time, and have Warrant, etc.

Received this day the Counterpart of the Indenture concerninge Fynors.

f. 4*v*] Die Martis 15 Decemb. 1640

Ordered, that Sir John Meldrom, shall have further time to make his defence to the charge given in Writinge against him till this day Fortnight, and A warrant is to issue forth for the bringing in of a Graunt made to Gerratt Gower, From the sayd Sir John Meldrom.

The Charge against Mr. Bullocke, by direction of the Committee, is delivered in writinge by a Member of this house, resting uppon these two points. 1. That the Patent which Mr. Bullocke hath is illegall in the Creation. 2. A greevance in execution.

Ordered, That Mr. Bullocke shall on this day 7 night make his defence, to the charge given in against him.

Ordered, that a Report be made to the house how this Committee is attended with a very few Members, not becomeing a Grand Committee especially considering the Important Matters of Trade, that come before this Committee: Therefore to move the house, to give a Monition to the Members thereof, that this Committee may be better attended this day 7 night to the end the Committee may be inabled to make such Subcommittees, as the great matter of Trade, for the good of the kingdome, doth necessarily require.

Ordered; that the Gold wyerdrawers, shall on this day Fortnight be further heard to make their defence, and may have Warrant for parties, witnesses, writings, bookes or Records.

Miles Pemberton and [*blank*] Smith avowed their Petitions and are to have a day in Order of time.

f. 5] Die Martis 22° Decemb. 1640

Mr. Warner to be heard this day 7 night.

John Cartwright avoweth his Petition.

Ordered that Samuell Warner shalbe heard uppon both his Petitions this day 7 night, and have Warrant for Parties etc. Notice, etc.

John Cartwright his Petition read and avowed.

Ordered, that copies thereof be made to the end the parties complayned of may be enabled to answere the charge.

Ordered that the Merchant Adventurers tradeing into Germany and the Low Countreyes shall be heard this day fortnight, uppon their petitions, and bringe in their bookes, and Orders of their Trade, their Patent and proclamations touchinge the same.

Merchants trading into the Levant; peticion Read, and Ordered to be heard this day Fortnight.

Mr. Alderman Soames, of his owne accord, is willing to acquaint the severall Companies of Merchants in London to attend this Committee this day Fortnight, to the end that they may give Information to this Committee what is the cause of decay of Trade, what their principall greevances are; and what Remedy they conceive is fitt etc.

f. 5*v*] Die Martis 29no Decembr. 1640

William Jones Petition Read: not avowed *sine die.*

Sir John Meldrom this day made his defence by Councell to the Charge Exhibited against him by the Trinity house, touchinge the Lights uppon the North and South Foreland.

The Master of the Trinity house and others of that Company, were heard by way of Information, but a voluntary Certificate produced by them the Committee thought not Fitt to alow of it.

Ordered those of the Trinity house, shall have Further Time till this day 3 Weekes to be heard in their defence, by witnesses or other testimony, and to have Warrant for Parties, witnesses, writings and records, which may conduce to the matter complayned of.

f. 6] Die Martis 5to Januarii, 1640

William Barker Marriner, now prisoner in the Kings Bench in Execution for debt, his petition to be at Liberty to prosecute a complaint against the Farmers of the custom house, was Reade and declared by the Committee, that it deserves consideration, before such time, as a man in Execution, shalbe priviledged to prosecute his owne Suite, Soe noe Order made.

Mr. Corbet reports from the Sub-Committee appointed to consider of Mr. Rolls Busines, and produceth the Order made in the Exchequor uppon the Replevin brought by Mr. Rolls, which was Read; and putts the Committee in mind of Examinations formerly taken before the Committee whereby it appeared that there is two Bayles of silke of Mr. Rolls in the custody of the Farmers for custome and impost and hath beene soe for theese 12 yeares.

Opinion of the Committee is that a Report, be made to the house, of the deteyning of the 2 Bayles of silke of Mr. Rolls in the custome house for not payinge of custome and Impost; and of the Order made in the Exchequor, when a Replevin was brought by Mr. Rolls, for his Goods, and to desire the house that a select Committee, may be appointed of the Longe Roabe to take into consideration the Legallity or Illegallity of that Order made in the Court of the Exchequor Starchamber.

Merchants tradeing in Germany and the Low Countreyes appeared this day before the Committee and delivered their patents and bookes since the yeare 1406; 8vo H. 4. f. 6*v*] and proclamations touchinge the Government of their Trade, the Patents were delivered back to them againe in regard the Merchants declared it would much concerne them in their Trade and Creditt, if it should be bruited abroad their Patents were called in.

Therefore Ordered to produce Copies thereof.

First Patent dated 8o H. 4. 8o 1406.
2 Patent 1mo H. 5.
3 Patent 1o H. 6 and confirmed by Act of Parliament.
4 Patent 3o E. 4 per Inspeximus.
5 Patent 1mo R. 3 per Inspeximus.
6 Patent 21 H. 7.
7 Patent 1mo H. 8 per Inspeximus.
8 Pattent 1o E. 6.
9 Pattent 1 et 2o Ph. et Mar.
11 Pattent 2 Eliz. 2.
12 Pattent 6 Eliz.
13 Pattent 8 Eliz. per Inspeximus.
14 Pattent 2 Jac.
15 Pattent 15 Jac. in Custody of My Lord Treasurour.

The Red covered booke conteynes Orders for Government for the Company heere and beyond Sea since Anno 1296 to this day.

Merchant[s] trading in the Levant to be heard this day 7 night, to give Information in writinge of the decay of Trade. The Reasons and causes thereof and what they conceive may be a fit remedy.

The like Order for the East India Merchants, Eastland Merchants and French Merchants.

The Spanish Merchants have this day delivered in 4 papers in nature of Remonstrances of greevances in their Trade.

Ordered that Mr. Lenthall shalbe peremptorily heard this day 7 night uppon his Petition the First cause.

Received this day 2 great bookes of the Merchants adventurers one with a blacke cover the other with a Redd cover.

Memorandum. [Jan. 12, 1640 *in margin*] Mr. Lenthalls cause came on to heareing at the sayd time, and referred back to the Court of Admiralty, to proceede with effect to sentence; or otherwise to be resumed.

f. 7] Die Martis 19no Januarii 1640

Peticion of the Citizens of Chester touchinge transporting of Leather, Read. Referred to the Committee for Salt, Soape, and Leather.

Ordered, that the cause concerning the Lights of North and South Forelands, be heard on this day 7 night.

Peticion, Masters, owners and Seamen of Ipswich Avowed.

Another Petition of the same parties tradeing to Newcastle, Avowed.

Ordered that Mr. Warners cause shalbe heard the next after the Goldwyer drawers Cause and Sir John Meldroms and Mr. Bullocks Cause.

The Petition of the Company of Gardiners avowed.

f. 7*v*] Die Martis 26 Jan. 1640

Petition Valentine Beale.

Ordered that Valentine Beale shall attend (this day 7 night) upon this Committee uppon a Peticion preferred against him, to answere to such matters, as shalbe obiected against him on the behalfe of the Eastland Merchants, and a Warrant etc.

Those of the Trinity house and Sir John Meldrome to be Further heard this day seavenight.

Ordered, the Matter concerning Dungennesse Lights shall be heard on this Day 7 night, and Mr. Bullocke to have notice.

Ordered, Mr. Cartwright be heard on this day seavenight, and have Warrant.

Ordered, Mr. Gower to bring in his Patent for Winterton Lights.

Ordered, the Masters and Owners of Shipping tradeinge from Ipswitch to New Castle shalbe heard uppon their Petition against the Trinity house this day fortnight.

f. 8] Die Martis 2o Febr. 1640

Ordered, that the Clothworkers of the Parish of Leedes in the County of Yorke, shalbe heard uppon their Petition, this day moneth, and have Warrant for Parties, Witnesses, etc.

Ordered, that the Merchants Adventurers, shall attend this Committee this day 7 night to shew cause why William Sikes now prisoner in Rotterdam should not have his Liberty to prosecute his Complaint heere, he being there in prison, by the procurement of the sayd Merchants.

Ordered, that Mr. Cartwrights cause, shalbe heard the first, the next day.

Ordered, that the Eastland Merchants, shalbe heard this day 7 night, And Valentine Beale then to attend.

Ordered, that the matter concerning Dungennesse Lights, shalbe likewise heard this day 7 night.

f. 8*v*] Die Martis 9º February, 1640

Petition, of the Merchants owners of the best Shipps Tradeing into the Straights, Spaine, Portugall, and France, read, and Avowed, by Mr. Cranley, and Mr. Bradley, against, the Imposition uppon their Shippes and goods for maintenance of the Lights on North and South Forelands etc.

Ordered, that the sayd Petition shalbe represented to the Committee on this day 7 night before such time as the vote in the case of Sir John Meldrume be passed by the Committee.

Mr. Cartwright was heard this day uppon his Petition against Alderman Garoway and the Muscovya Company: But in regard the Petition was soe Generall and noe profe was made, of any letter to the sayd Company, from their Agent beyond Seas for the payment of 500£ to Mr. Cartwright as is set forth in his Petition; the Committee returned to the sayd Mr. Cartwright his Petition againe.

The Eastland Merchants were this day heard uppon their Petition against Valentine Beale for beinge an Interloper into their Trade, being noe Merchant nor Free of their Company; and yet a Trader into their Parts beyond Seas; nothing done uppon this.

Ordered Joseph Raleigh shalbe heard this day 7 night first cause.

f. 9] Die Martis 16to Febr., 1640

Ordered, uppon the Readinge of the Petition of Clothiers of Worcester, That the Merchant Adventurers Pattent be forthwith sent for by Warrant to be brought into this Committee.

The Secretary to the Merchants Adventurers was called in to give an Accompt why they keepe in prison one William Sikes, at Rotterdam, and will not suffer him to come and prosecute his complaint heere: Who answered, he was imprisoned for not conforminge himselfe to the Orders of their Company beyond Seas: But however declared the Merchants Adventurers are willinge hee shalbe at Liberty to come over and prosecute his Complaint here which the Committee enjoyned him might be speedily done.

Report was this day made at Large by Sir Robert Harley to the Committee, of the proofes made by both parties, in the Case of Sir John Meldrum in the Lights of North and South Foreland, uppon which it was Resolved uppon the Question That this Patent Granted to Sir John Meldrum for the setting upp of Lights on the North and South Foreland in Kent, is illegall.

A Question beinge propounded whether these Lights were usefull or not some exception was taken to this Question, whereuppon it was put to the Question whether a Question should be put or noe.

f. 9*v*] Uppon the puttinge of this, whether a Question shall be put or not; the Committee was divided.

Mr. Hollis, Sir Nevill Poole appointed Tellers per yea.

Mr. Goodwin, Mr. Whitehead appointed Tellers for the Noe.

Uppon A report made by them to the Chaire, there were 50 for the yeas of which Sir Robert Harleys voyce was one, and 50 for the Noe.

Sir Robert Harley is to report this Specially to the house.

Ordered, the Petition for Ipswich touchinge the payments made by the Trinity house, out of Saylors wages, and their Peticion touching Ballast Shoare, shalbe heard this day 7 night.

Ordered, that the busines concerninge Cley and Wiveton, shalbe heard this day 7 night the first cause.

Ordered, that the Goldwyer drawers shalbe peremptorily heard this day Fortnight.

f. 10] Die Martis 23^{tio} Febr. 1640

William Jones Printer his Petition Read and referred to the Committee for the Archbishop of Canterbury.

The Petition of Roger Stephens *et al.* Read.

Ordered that the Remonstrance mentioned in Roger Stephens Petition to be in the hands of the Commissioners therein named shalbe forthwith brought into the Grand Committee for Trade, to the end the sayd Stephens and others may proceed according to the Contents of his Peticion.

Joseph Raleygh on the behalfe of the Inhabitants of the Towne of Cley and Wiveton in the County of Norfolke were heard by their Councell against Mr. Reighnolls a Member of this house, touching a Stop of the passage of Shipps to the sayd Towne.

And Mr. Raleygh acknowledged his error in accusing Mr. Reighnolls with a practise; which he Failing to prove, received a sharpe Admonition as alsoe his Councell for averring the same.

Ordered, that the Merchants and Owners of Shipping of the Ports of Linne, Wells, etc. in the County of Norfolke shalbe heard the second day in the nexte Terme and have Warrants etc.

Ordered, that the Masters and owners of Shipps for the Towne of Ipswich shalbe heard uppon their two Petitions the one against the Masters of the Trinity house, the other touching the Balast peremptorily the first cause this day 7 night.

f. 10*v*] Die Martis 2^{do} Martii 1640

Ordered that the Masters and Owners of Shipps tradeinge from Dover, shalbe heard uppon their Petition (this day preferred to the Grand Committee for Trade) this day Moneth and have Warrants for Parties Witnesses wrightings and Records.

Ordered that Lyonell Tynley shalbe heard uppon A Petition this day preferred to the Grand Committee for Trade in the name of 20 Thousand Mynors Inhabitants in Darby-shire on this day 5 weekes and have Warrants for parties etc.

Ordered that the parties complayned of by the Masters and Owners of Shipping of the Towne of Ipswich (touching Ballast) shalbe heard this day Seanight to make their defence and have Warrants for Parties etc.

Ordered that the Goldwyer drawers shalbe heard this day 7 night next after the Cause of the Ballast.

The Clothiers of Leeds were this day heard as alsoe those of Wakefield.

Resolved uppon the Question,

That the cause of the Clothiers of Leeds against those of Wakefield shalbe noe further Reteyned by this Committee.

f. 11] Die Martis 9^{no} Martii 1640

Ordered that the busines concerning Dungennesse Lights shalbe peremptorily heard this day 7 night and Mr. Bullocke is to have convenient notice then to defend the Legallity of the Pattent, for Dungennesse Lights (if he please) on which point onely, the parties complayning will insist.

Ordered the Clothiers of the City of Worcester shalbe heard this day fortnight uppon a Complaint against the Merchant Adventurers and a Warrant is to issue forth for the bringing in of the Pattent graunted to the Marchant Adventurers and their Bookes touching the sayd Company.

f. 11*v*.] Die Martis 16^{o} Martii 1640

The peticion of Roger Talcott dyer read and avowed *sine die.*

Tho. Smethwicke his peticion read and avowed ordred to bee heard this day 3 weekes; and have warrant for parties witnesses and writeings and Records.

The Pattentees for the Balastinge of Shipps, out of the Ingines upon Thames, were heard this day to make their defence to the Charge given in against them.

Resolved upon the Question,

That the Constraineing of the Kings Subjects to buy ballast of these pattentees by Coulour of this Pattent, and ristraineing of all others to sell ballast by Coulour of this Pattent is a greevance.

Ordered that this day fortnight the legallity or illegallity of the said Pattent shalbee taken into Consideracion.

Ordered that the matter concerneing Dungennesse lights shalbee heard this day fortnight.

Ordered that the matter concerninge Winterton lights yett unheard shalbee heard this day 7 night.

Ordered that the merchants and Traders in draperies, shalbee heard on this day 3 weekes, and have warrants etc. for the bringing in of Pattents, bookes, writeings, parties, witnesses.

APPENDIX B

Excerpts from Rawl. C 956

A brief account of this manuscript is to be found in the Preface. By permission of Bodley's librarian I have been enabled to make use of this very full narrative of the first month of the Long Parliament. Full as it is, most of it of course duplicates what is already in the text of D'Ewes and the footnotes to that text, and in *Commons Journals*. Yet there are some paragraphs that tell us more. We learn a good deal about speakers that do not appear elsewhere, somewhat more about what was said, and why the House was moved to act as it did. I have tried to put in all that was essentially new, but I have included also passages where the Rawlinson account seems to present a clearer version than that in the text. A few extracts have been made merely because they served to elucidate the order of proceedings.

The excerpts are in reality only footnotes to D'Ewes. The page reference at the beginning of each should make it easy to place it.

At the end of the diary are to be found some useful committee notes.

[Nov. 7]

[Page 5, and note 20]

f. 4] Mr. Capell delivered the Petition from Hartford off severall Grevances.

In Religion by the Vyle carriage and practices off some clergy men in that County; By refusing to administer the Communion to many Hundreds off that County conformable men; By vexation in suits by some off his Majesties officers; by Escheaters and Receivers; by Serveiors. By Monopolyes. By Shipmoney. Nott having parliaments frequent and the Brake off the last. The New Booke off Cannons. The inhibition off Sermons upon weke days. The oath *ex officio,* the oathe off church wardens. The Punishment off freeholders for nott paying off Coate and Conduct money. f. 4v] Desires That requisition may bee made off the Authors off the great Calamityes.

[Page 11]

f. 7v] Mr. Bagshawe Moved that the violators off the Statute off Monopolyes and the petition off Right might bee made felony in praemunire att least.

[Nov. 9]

[Page 16]

f. 8v] A Petition delivered by the Citizens off London; conteyning many grevances especially the fortifying off the Tower and comitting the commande to some such hands as hath given the Citty iust cause off suspicion off hard measure intended towards them.

[Pages 17-20, and page 17, note 19]

f. 9] Mr. Pimm moved that our humble thankes might be returned to his Majesty and that for the better execution off his Majesties intention heerin a committee might bee named who might call all church wardens and other officers and such persons as they shall thinke fitt to see that his Majesties gracious Message be duly executed both for removing and disarminge off the Recusants.

f. 9v] Mr. Whistler acquainted the House that ther have binn letters off Grace under the privy signitt directed to Judges in Circuite and all other officers whom it may concerne nott to proceede against some Recusants named in the said Letters and delivered a Coppy off the said Letters which were Red.

Mr. Controuler. All *Non obstantes* are ever *Vulnera Legis.*

Mr. Culpeper moved that ther might be a Committee named for the [*blank*]

f. 10] Mr. Speaker moved that the Messengers from the Lords might bee admitted; which was ordered. The Messengers Mr. Attorney and Sir Robert Rich Master off Chancery.

The Message that ther Lordships had already presented ther and the desires off this House concerning the fast and that they had received a gracious answer from his Majestie that hee would be pleased ther should bee a fast and that ther Lordships would give a present meeting if it stood with the conveniencies off this House; The number off the Lords would bee 12. To consider off time and place.

The House answered that wee would meete the Lords presently with a proportionable number.

f. 10v] Sir Tho. Roe, Mr. Treasurer, Mr. Controuler, Sir Jo. Strangwayes, Sir Walter Earle etc.

Sir Tho. Roe appointed to make the Report from the Lords.

Mr. Rowse delivered a petition from the wife off Mr. Prinn.

Mr. Whistler moved that ther might bee named a Commite for the statutes off Continuances.

Mr. Kirton moved that the Petitions might bee redd; A Petition off Dr. Leyton; who complayned that hee was imprisoned as a Preist and Jesuite. His House and clossett searched; Bookes and all manuscripts taken from him by the Sherifes off London and persivants; And that the Sherife off London wished that the lawes and priviledges off the subiect had never binn agitated in Parliament.

f. 11] In this petition it was likewise suggested that hee received in the Starrchamber as great [censure] as ever was given ther by 10,000£ fine by cutting and slitting his Eares and nose; branding his face with hott Irons; with many other sufferings. His offence for publishing a Booke off Sions Plea against the Prelacy; his 2d Booke A looking Glasse.

Mr. Rouse moved that ther might bee a speciall Committee named for the examination off this busines.

f. 11v] Mr. St. John moved that the petitioner might bee sent for to prosecute his petition.

Sir Thomas Roe. Reported that the Lords had generally agreed to the dayes formerly apointed and that the suburbs and places adiacent should bee moved to his Majesty to keepe the same dayes fast also.

Ignotus moved a preacher might bee named.

Mr. Rouse moved that none might bee named that had any hand in the last Cannons.

Dr. Burges, Mr. Marshall and Mr. Gawdy ordered by Question for the fast and communion.

Resolved by Question that the next Lords day commonly called Sunday after some

f. 12] Fable holy communion shall be celebrated in St. Margaretts in Westminster.

Mr. Gawdy apointed for that service.

Mr. Pim moved that a committee might bee named. Mr. Morley resolved by Question to preach in the afternoone upon the Sunday that the Communion is celebrated.

Sir Tho. Roe moved that every Member shall bring an attestate when hee last received the Holy communion which was left to the consideration off the Committee.

Mr. Pim moved that ther might be a Committee named to superintend the holy worke of the administration of the Sacrament to prevent the profane reiection off the holy communion; and for the securing the House that noe Recusant may sitt amongst us.

f. 12v] Mr. Prin Delivered a petition by Mr. Rouse.

Resolved upon the Question that Mr. Prin should be sent for as in the case off Basticke and Burton. The Busines to be referred to the Committee for Mr. Layton. John Limburnes petition delivered by Mr. Cromwell; suggesting sentence in Starchamber; with 200 stripes, gagging, pillory, imprisonment, and hard use in prison.

Ordered that Limburnes Petition bee referred to the Committee likewise for Mr. Layton and that Mr. Cromwell bee added to this committee.

f. 13] A Committee to have power to call all such persons as they shall thinke fitt to see.

Sir H. Milemey. . . .
Mr. Rouse . . .
Sir Francis Seymor . . .

f. 13v] Mr. Peard moved that any man that either was father that begott it or a nurse that nourished a proiect should nott sitt in the House and such as should; should bee punished as restrainers of the orders off this House.

Mr. Strowed moved that all Lawiers that know the lawes that have drawne any pattents for proiectors may bee in the like Condition with the proiectors themselves.

Mr. Sargant Hyde moved that all referrees whether lawyers or noe might be within the order.

f. 14] Ordered that all proiectors and monopolers whatsoever that hath any share in or hath had any share in any monopoly or any benefitt therby contrary to the Stat. off 21 Jac. or doe receive or have received any profits therby or that have procured any warrant or restraynt or mulcting off any that have refused to conform himselfe to such comand or proclamation.

[Nov. 10]

[Pages 20-21, first proceedings of the day]

f. 14v] Sir Ed. Dering moved that Religion might be preferred to bee agitated in the first place and preferred a Petition off Thomas Wilson Conteyning suggestions that hee was forbidden to preach. That hee was suspended for 3 yeeres for nott Reading the Booke off proper Sports. That hee is prosecuted for nott Reading the new prayer etc. And hoped [*blank*]

Mr. Rouse that ministers are certeynly *Jure divino;* Bishops doubtful but archbishops certeynly bee not; and moved That those which were nott *Jure divino* should [not] sylence those that were *Jure Divino* and desired that the Petition might be Committed.

f. 15] Ordered that this Petition should bee referred to the same Comittee that Dr. Laytons was.

Burg[ess] of Newcastle. That Newcastle a place of great Consequence in shipping in marriners in Coles. The Cole mines almost utterly lost and 400 Sayle off ships upon seese in that harbour.

Durham [*blank*]

f. 15v] Sir William Withrington. Calling the Scotch Rebels; received the rebuke off the House and was putt to explaine himselfe and made acknowledgment; It was ordered to be entred in the Journal as language disliked by the House; moved.

Lord Digby. A Recent New Synode made off an ould Convocation.

f. 16] Smarts petition delivered by Mr. Bagshawe against Dr. Cuzens wherin the Doctor is suggested to preach that the King had noe more to doe with the Supremacy then the Boy that rubbs downe his Horses heeles. And that it never was rule with the Church off England since the Masse was putt downe; And that what was called a reformation is a deformation.

[Page 22 following the motion that Cosin might be sent for by a Sergeant of Arms]

f. 17] Mr. St. John moved that a select Committee might bee named to draw all such grevances out of the particular.

[Page 23]
f. 18] Mr. Pim moved that ther might bee a releife contributed to the Northerne Army but with all that though it were raysed out off the kingdome yett it was nott the intention off the House that the Kingdome should beare it but that those who have bin the evill Councellors to procure [?] this.

[Nov. 11]

[Pages 25-26, Clotworthy's relation]
f. 21v] The witness off Sir Ro. King that the Army off Ireland were nott raysed for the subduing off the Scotts but when the Kings Army was in the Field an Easy end would bee made of them and then if the King did not what hee list off his subiects hee deserved nott good Councell.

[Page 26, note 23]
f. 23v] Mr. Pim suffered to goe out off the House purposely to give intimation to the Lords privately that some busines off great consequence to confer with them about and desired they would sitt the longer; but this by permission.

[Page 27, note 32, and page 28]
f. 25v] Mr. Pim reported from the Comittee for the conference with the Lords concerning the Jelousyes we have off some violent courses to bee taken for the advancement off Popery, The Grounds derives from the P[o]lity off the papists the other from the Lord Leiutenant.

In the Lord Leiutenant; in Mris. Husey and the prests with the preparation in the Irish Army; to bee brought into this Kingdome.

From Mr. Stevens certifyed 3. The Lord off Worster had 500 Armes Redy Great store off Moneyes taken up by the Recusants beyond sea for the advancement off the f. 26] Cause heere att Home.

Mr. Hamon off Dorsetshire 60 Armes provyded for him a great Recusant Ratclife speaks to King concerning the Irish Army; That it was against Ingland [*doubtful, written over* Ireland] and nott against Scottland.

That the Lord Leiutenant when hee have had the goverment hath sent accordingly. Hee hath sent out warrants for mony upon payne off life and hee that would goe in such wayes off excess would if hee had a Sword in his hand; what nott.

That the Lord Leiutenant have binn a maine Instrument to provoke the King to make a warr betwene us and the Scotts that therby wee might consume one another f. 26v] that hee might the better bring in the papist party.

That this Lord have obteyned a Commission off warr to have a tryall against the Lord MountNorris.

That the Lord had a designe to bring the Army off Ireland to suppress the lawes and libertyes off this Kingdome which wa [*blank*]

[Pages 29-30, being the proceedings from the speech of St. John on to the end of the day]
f. 27v] Mr. St. John. That it was Treason to levy an Army to subverte the Lawes off this Kingdome 25 Ed. 3; since it was treason to deliver Castles or forts having victualls delivered to trust. The lawes are the forts off this Kingdome.

It was adiudged in Empsons Case that hee did endeavour to subvert the lawes.

The Petition off Right but only a declaration off the Common law off the Land.
f. 28] The making off levyes upon payne off death.

Mr. St. John was for a generall charge and if hee had never soe many particulars hee would goe in a generall way and moved that ther might goe out a proclamation in respect the charge was to move from the Commons that all such could charge him should come and give Evidence against him.

f. 28v] Resolved by Question . . . [similar to C.J.]

1 R. 2 Alice P [*blank*] There went a proclamation to have all that could come in.

Resolved by Question . . . [similar to C.J.]

f. 29] Resolved by question that the Lord Leiftenant proper name should bee added to the former order. Resolved upon the Question.

Mr. St. John . . . [similar to D'Ewes]

f. 29v] Mr. Pim apointed the Messenger.

Newton examined, acknowledged hee tooke many preists and Jesuits and had them in prisonment but was delivered by warrants afterward.

Affirmed that ther was a stopp of a proceeding against a Jesuite that passed some 2 or 3 Aliases intended to outlawry and that by Judge Bartlett who sayd hee had such directions from the Kings Attorney.

Hen. Mosse a Jesuit proceeded against taken off by letters from his Majesty in the instance off the Queene.

f. 30] Grey examined affirmed that hee had prosecuted above 30ty and had thrown in Gaole and all are sett loose. He delivered a Noate off the first names committed by him.

Dr. Baskvile examined. What Members have spoken with him; Affirmed that Mr. Pim did tell him that hee was sent for to affirm what passed from Mr. Secretary Windebank.

f. 30v] Ordered that Mr. Treasurer should make a returne off our Humble Thankes to his Majesty for his gratious message Concerning Recusants sending them out off the Towne disarming and putting by the Constable off the Tower etc.

Ordered that [*blank*]

[Nov. 12]

[Page 30]

f. 31] Upon Thursday.

Sir Nevill Poole moved that the orders off the House might bee putt into execution concerning the Members off the House that suche as had obteyned any Monopolyes or received any profits from any Patent should nott sitt in this House.

Resolved by order that Mr. Sandyes [*blank*]

Mr. Pim moved that the Preist called William OCon charged by Mris. Hussy with treason against the Kings Person might nott come to tryall att the Kings Bench this day as is assigned but that ther might bee a messenger sent to that Purpose to the Judges off the Kings Bench in respect that his Cause is in agitation in this House f. 31v] that they thought it fitt that his tryall bee stayed untill further order from this House which was ordered accordingly and Mr. Peard assigned to carry the Message.

Mr. Peard reported that the Judges would observe the order of this House.

Sir Walter Earle moved that the great busines off preparation off the particulars off the charge against the Earle off Strafford might bee agitated and prepared by the Comittee nominated yesterday for the preparing off the message to the Lords concerning the said great person.

f. 32] Which was ordered accordingly.

[Page 31, note 4]

f. 32v] Sir Robert Crane. Declared to this House that yesternight ther was a yonge man with a pistol under his cloake discovered upon the straight passage going downe the stayers and moved for a Gaurde.

Ignotus acquainted the House that ther was 12 Irish men seene in the Hall last night with Swordes and Pistolls.

[Page 31, following Pym's speech]
f. 33v] Sir John Clathworthy moved that good Consideration might bee taken what we did in this busines since those 2 gentelmen were off the Parliament in Ireland.

[Page 32, either Glynne or another speaker on the same subject]
f. 34v] 2º H. 4 such inconveniencies were by this House found by the carriage off intimations off such thinges nowe in agittation in this House to the King before they were determined and petitioned the King to prevent that mischeife etc.

[Nov. 13]

[Page 32]
f. 35] Upon Fryday

Hen. Darlyes Petition delivered by Sir Gilbert Jarret; conteyning a suggestion that he was by the command of the Earle of Straford by warrant under his Hand committed to Yorke Goale without cause showne and that hee had moved att the Kings Bench and could nott obteyne a Habeas Corpus, desired a release.

Sir Anderson moved for a Select Committee to bee nominated to examine this Petition and that might reporte what was fitt to be taken into the consideration off this House.

Mr. Whistler that the petitioner might be sent for.

Ordered that the Petitioner shall be sent for . . . to be conveyed hither in safe custody to pursue his petition.

f. 35v] Ordered that the denyall off the Habeas Corpus by the Judges shall bee examined by the Committees off Courts off Justice.

A Petition from Mr. Walker a M[in]ister delivered by Mr. Cradock; Suggesting of many oppressions by imprisonment for preaching a sermon.

A Petition from Oliver Baker soe likewise delivered; close prisoner in the Fleete.

Ordered that Mr. Walker shall be set free, that hee might averr his Petition.

Ordered that Baker shall bee sent for to prefer his Complaints att the Committee off the Courts off Justice.

f. 36] Mr. Pim moved that it might be ordred that the comittee off 24 to have power to receive all informations for the better enabling the comittee to make a representation off the body off Greevances to this House. Ordered accordingly.

Ordered that the Select Comittee for the charge off the Lord Leiutenant may have power to send for Records, partyes, and wittnesses and all other things that shall conduce to the charge. Ordered to meete in the Treasurie Chamber in the afternoone.

f. 36v] Mr. Solicitor Reported from the Committee assigned to examine that Sir G. Ratclife and Sir Robert King to bee sent for . . .

[Pages 33-34]
f. 39] Sir Fleetwoode. 1. Concerning the miseryes off the kingdome.

2. For the mayntenance off the Army [*blank*]

For the miseryes; the Scotts 80 myles in the Land. The Northerne Countyes in Contribution. That the Armyes have nott a fortnights pay. That the Scotch army was all able. The ground off thes distempers were from the service Booke; and so the beginnings from the clergy.

f. 39v] That the Lord Leiutenant was a great Authour off thes troubles. In the supply; propounded that wee might setle to [*blank*]

Sir Tho. Roe. What money, how to bee raysed. Not to be raysed in this exigent but by the assistance off the Citty off London.

Z Sir Hugh Chomly. A summe to bee given, how to bee given, and how to bee disposed; To bee given by Subsidy.

f. 40] Agreed that consideration off the Summe might presently bee taken and how to bee disposed.

Sir Harlo. That wee might pitch upon a summ and fixes upon 100,000£ but by noe meanes by way off subsedy.

Sir John Hotham. By Subsidy, nott by Loane or new wayes. 100,000£ will doe the worke for the present. Tis the old and suer way.

Sir Tho. Roe. That the City would lend. The Lords would secure If the House would declare.

f. 40v] Sir William Udall. . . .

Mr. Kirton. Nott by subsedy and reckoned in the inconveniencies off that Stat. 21 Jac.

Sir Walter Earle. For the Summ 100,000£ By Way of Subsedy.

Mr. St. John [*blank*]

Mr. [*blank*]

f. 41] Mr. Tresurer for the manner; By Subsedy or otherwise; The mony will nott come seasonably but by the assistance off the City off London; but feare a bare Declaration will nott bee sufficient; But moves for a Subsedy. That the Month is out for the payment by the Northerne Countyes. A Treaty is best accomodated when Armyes are equall in the field.

Mr. Glyn. That ther was a Great resolution to releefe the Army.

1. That wee would Releefe.
2. What proportion.
3. How to bee disposed.
4. By what meanes to Raise.

f. 41v] Mr. Grimston. That that is to bee given is but a supporte and if you see cause what wee doe now wee may doe a fortnight. The way off a Parliament Regula[ri]ty is to beginn with our Greevances to end with subsedyes. But the necessity off these matters above that methode.

Mr. Vassall. The eye is upon the City of London for this supply. The Chamber off the Citty off London was heretofore in Cash well provyded; but is now empty. f. 42] The last 50,000£ was borrowed off the Companyes, which now cannott doe it. It must bee now raysed by particular persons which will looke to have better security then the citty if like would have demanded but thinkes if the House should please to goe by way off subsedy it will bee the best security and desires wee may goe that way.

Sir Jo. Clatworthy. Nott by Subsedy, for time spent in the preparation off the Bill. Suplyes have binn given in the beginnings off Parliaments and nott by Subsedyes; and desires some off those wayes may bee searcht and may bee a direction to us, and what wee give to give presently for necessity requires.

Mr. Hollis. Tis Agreed that ther is a present necessity; and that ther is a resolution f. 42v] off releefing off that necessity. Doubts in the way off giving. Danger by giving off subsedyes before releife off greevances. Inconvenient upon pitching upon a certeyne summ soe as the Lords should take it up to satisfy the necessityes off the Army, and then wheras we may [have] the purse and the releife soe hee desires that wee might have the thankes.

Mr. Corrington moved that the House would only declare the Lords would give security and that the Citty would bee moved to lend.

Mr. Tresurer moved that the Cittizens off London might declare the intention off the Citty.

f. 43] Mr. Controuler. If the army off the King bee nott releived by pay; they will disband; and if the army off the Scotts are nott [to] bee trusted; having some taste of victory.

Sir Peter Hamon. That if the City off London would furnishe and advance to the summ of 100000£ that wee should nott goe by the way of the Lords nor that wee should give a Subsedy; but according to former presidents some subsedary way might bee proceeded in that might bee tendered to the citty as security.

Alderman Pennington. Hee doubts nott but the citty will to ther utmost comply with the desire off this House.

f. 43v] Mr. Pim. Nott by way off subsedy but by way off contribution to bee raysed throughout the Body off the whole Kingdome for the particular purposes expressed. And moved that the Summ might bee setled by Question.

Mr. Hambden. Moved that wee might agree the way before wee voted the sum. And that hee rather inclyned to Rayse the Summ by Act off Parliament then by declaration; since ther is danger in both but most in a declaration since by Act we may meete with most of the dangers in the penning off the Act which cannott be by declaration.

f. 44] Gline. 14 Ed. 3. Noe new way to grant by way off Declaratory Act wher is expressed the Cause off the grant. This proposition That since we have declared our intentions to releive the Kings Army that wee may putt off this busines for this day and the Citty may bee dealt with all in the interim and the House bethinke themselves off the way.

[Nov. 14]

[Pages 35-36]

f. 46] Upon Saturday.

Ordered that such messengers are sent for Sir G. Ratcliffe and Sir Joh King shall have the assistance off all officers and liberty to take post horses.

Mr. Maynherd Reported from the Committee off Priviledges That such Indentures as were returned by the Commons should not bee received but only such as were by the Mayors off townes wher Mayors were and by Baylifes where Baylifes were.

Mr. Corington accused for miscarriage off the Election off [*blank*] being Maior and for severall oppressions as Warden off the Steyneryes.

f. 46v] Mr. Selden observed that hee was charged with bringing up off Blank indentures and putting in the names off such Burgesses as did serve heere in Parliament.

Mr. Corington. Confesseth hee did bring one up a Blanck Indenture and that hee did putt names therin. But confesseth nott who they were. Mr. Corington commanded to withdraw.

Mr. Arundell desireth that all such as sitt heere by virtue off any Blank warrant may receive the like Justice; Named Sir Rychard Buller.

f. 47] Sir Rychard Buller; that hee was chosen by the Towne and that hee had the Indentures sent up to putt in his owne name.

Mr. Maynherd that ther was difference in these two cases; that wher noe Election was made and indenture received and wher noe Election wher Indentures blank sent.

Mr. Pim moved that if ther were any members that satt heere by virtue off a blancke Indenture may be taken as strangers called to the Barre as delinquents Committed to the Tower and Fined according to the pleasure off this House.

A Committee named . . .

f. 47v] Mr. Treasurer, from the King . . .

Mr. Grimston moved that Sir Henry Spiller published a letter signed by the Lord Strafford att the Sessions att Middlesex by way off proclamation all were to conforme f. 48] in all levyes and other commands; and for staying the proceding of preists and Jesuits; and threatning the freeholders and levying charges upon them being a deputy leiutenant.

Ordered that Sir Hen. Spiller bee sent for by a Sergant off Armes forthwith as a delinquent to attend this House.

Mr. Bagshawe. Moved that 2 Cittizens att the doore would informe certayne matters off dangerous consequence Conteyned in Certayne Bookes sett forth by the Jesuitts both dangerous to the Kings person and this state.

The Cittizens to bee called in.

The names off the Cittizens Tho. Judd and John Clay.

f. 48v] The Booke Intytuled

Sir John Hotham moved that we might goe to our great busines.

Sir Tho. Fanshawe brought in Certificates off the Subsedy.

[Nov. 16]

[Pages 36-37]

f. 49] Upon Monday.

A Petition delivered by Sir Ed. Dering off a minister that hath binn for 4 yeeres suspended for nott reading the Booke off Sports upon Sunday.

Mr. Glinne. Mr. Watkins a member off this House charged with the Monopolyes upon buter with the Colection off the Loane, with the pattent off wynes. The Pattent off wyer. The Pattent of Tyle with sea coale.

Mr. Watkins ordered to withdraw upon the motion off Sir John Hotham For Contemning 2 orders; the one for sitting upon a doubtfull Election; the other being within the condition off a monopolizer that hee offered to sitt in the House.

f. 49v] And was ordered to bee called to the Barr and ther to acknowledge his fault, which was done accordingly. Hee nominated the Lord Goring and Sir Henry [Hungate] in the Pattent of Butter.

Sir Jo. Strangwayes from Sir Ed. Coke that a Monopolyzer is either an officer in the Creation or in the Execution. Moved that this busines might bee referred to a speciall Committee.

A Committee named . . .

f. 50] Sir William Udall . . .

Mr. Treasurer. That the Cittizens might make a Report how the Londoners were affected towards the Loane off the 200,000£.

. . . .

f. 51] The House cast into a Comittee for the debate off this busines and Mr. Solicitor to the Chayer.

Mr. Hambden moved that a present consideration might bee taken off what manner off security should bee given to the Citty for the money should bee taken.

Mr. Pim. That a Certayne number off the Aldermen off London might bee named Receivers, and have power to receive the same from the Countyes and might make a repayment off such summ out therof as might cleere the debit.

Resolved upon the Question that those Aldermen and others Cittizens that shall f. 51v] assure security for this money now desired shall receive for ther security such moneyes as shall bee levyed by the Act; and out therof repay themselves and those moneyes that shall bee raysed by ther securityes.

Mr. Wharton. Moved that Yorke might bee exonerated from the burthen off this grant in respect that it was the seate off this warr; and that the Kings Army was located ther and committed great Insolency.

Resolved by Question; That the Countyes off Northumberland Bishopricke and the Towne off Barwick shall bee exempted from the present levyes off the 100,000£.

f. 52] Resolved by Question that Barwick shall nott bee exempted from the said levyes And ordered accordingly.

Mr. Pim moved that ther might bee some 3 or 4 off the Merchants off the House named to examine the proportions off the Subsedyes and to bring the summe off 100,000£ with Conside[ration] to the Countyes that are exempted to the severall proportions upon the Countyes off the whole kingdome.

f. 52v] To morrow att 9 to meete.

[Nov. 18]

[Page 39]

f. 52v] Upon Wedsenday

Sir [*blank*] Ingram moved that 2 off the House might bee appointed to give thankes to those 2 reverent preachers that preached to us yesterday; and to desire that both the sermons might bee putt in printe.

Mr. [*blank*] moved that wee might take into present consideration both the innovations off Doctrine and Disciplyne.

f. 53] Sir John Hotham moved that thankes might bee given but that the printing might bee spared.

Sir Arthur Ingram and Sir Gilbert Jarret appointed to give the ministers thankes.

Mr. White Reported from the Committee that the Committee thought fitt that ther should bee a day assigned to debate the legality off the booke off Cannons.

Ordered . . .

Mr. Peard moved that none off the House might repayer . . . to the Lord Leiutenant . . .

[Page 41, at the end of Roe's report]

f. 54v] Sir Thomas Roe received a letter which intimated that the Scotts were resolved to make a levy off the contribution, with a stricht hand.

[Pages 41-42]

f. 55v] Mr. Pim acquainted the House that ther was such plenty off Matter that came into the Committee that they could not yett bee ready for ther Charge.

2. That ther were many mayne witnesses that were to bee examined which by the greatnes off the Lord Leiutenant would bee deterred and taken off if they were knowne and desired that the House would take consideration how to manage this busines soe as that the witnesses might nott be publikly known [?].

3. That ther was many Members off this House that knew and was privy to many thinges that would cleere the meyne of the Charge; and desired how farr if they should conceale it and not give information therof; this House would proceede against them.

f. 56] Ordered . . .

Mr. St. John. Ed. 3 time. That ther were many precidents that the Commons have binn present with the Lords in Criminall Causes in the examination off witnesses.

f. 56v] Sir Jo. Clathworthy accuseth one Freestone for traducing the Lords intrusted in the treaty, saying that they could nott have done more except they would have given Lesley the Crowne.

[Page 42 at end of Nov. 18, but see C.J. II, 31]

f. 57v] Upon Wedsenday in the afternoone att a Committee off the Whole House, The Solicitor in the chayer.

Sir Peter Hamond. In Ed. 3 time 3 levyes upon the kingdome to putting out off the Scotts out off the kingdome.

[Nov. 19]

[Page 46]

f. 60] Sir George Wentworth moved for liberty to resort to his brother hee having all his estate in his hands and that wee [he] would if the House should thinke fitt hee would forbeare the House att such times as hee should resort to him.

Hee was alowed by the House to resort att his pleasure and to come to the House att liberty.

[Page 46]
f. 61] MR. ALDERMAN PENINGTON. Related from the Citty off London; that the worke for the raysing off the 100,000£ is putt out to the making but could nott tell when it would bee perfected but would soone returne answer to the House.

[Page 46, at end of proceedings for Nov. 19]
f. 61v] Ordered that this Remonstrance shall bee presented to the House as con-
f. 62] ducing towards the Charge off the Lord Leiutenant.

MR. GRIMSTON Delivered the petition off the Lord Loftus which was referred to the Comittee for Ireland.

[Page 46]
f. 62v] Upon Fryday [Nov. 20]

Alderman [*blank*] delivered a Petition aginst the Monopolyzers off Salt.

SIR H. ANDERSON moved that the referrees for Salt might bee taken into consideration.

[Nov. 21]

[Page 51, the last part of Anderson's articles against Strafford]
f. 68] That he made some attempts upon the persons off great Lords.

That hee had a proiection att Yorke to serve and make fraction amongst the Lords.

That all the Armyes hee veryly thinks both off England Ireland and Scottland
f. 68v] now intended by him to bee made use to the Subvertion off our Lawes and Religion.

AL. PENINGTON. From the Citty off London that ther was already gott 20,000£ and the rest would bee ready in reasonable tearme; but the Rubb is what security shall bee given which sticks with the Citty and desires Consideration may be taken.

[Page 51, before the House went into Committee]
f. 69] SIR GILBERT JARRETT acquainted the House that Sir Henry Spiller Swore Constables to gather Ship money and coate and Conduct money; that hee continued a Constable two yeeres in the service in respect hee had nott gathered neither ship money nor Coate and Conduct. That hee sayd that it was a foolishe thinge to peti-
f. 69v] tion for a Parliament. Could a Parliament blow away the Scotts . . . That now the Rebells were come into the parliament it was a simple thinge to petition for a Parliament. If the breeth off a Parliament would nott blow away the Rebels that they must furnish the King with musters and money.

[Pages 51-52]

[The diary gives the account of the subscription taken by the members in Committee (ff. 70-72). It includes nearly all the names mentioned by D'Ewes and Palmer, and adds the following: Mr. Godolphin, Mr. Bodvill, Lord Herbert, Mr. Chichley, Mr. Vassall, besides three men marked "Ignotus." It adds also the following interesting details:]

f. 70] MR. CONTROULER desired noe man might goe out off the House until [*blank*]
f. 70v] For 2000£ Sir Symons Deuse the Head.
f. 71] Dr. Edon refused being called upon.

[After the money had been subscribed]

f. 72] Mr. Kirton moved that the Citty might take ther choyse off 100 out off the House to stand engaged for the Mony.

Mr. Alderman affirmed that the Lord Maior had propounded security and Interest for incouragment, and hee thought many would expect it.

Sir John Hotham moved that a Comittee might be named to prepare the busines concerning this moneyes.

[Nov. 23]

[Page 54]

f. 72v] Upon Munday.

A petition from the company off Grocers; suggesting that ther trade was iniured by many monopolyes; by that of Starch, off Red and White Okar, Copperice, Tobacco, Allum, Red wood.

Sir Nicholas Crispe for Copperice Red woode.

Mr. Andrew Mr. Harrison for Allum.

Mr. Mutis for white Starch.

John Carter the generall receiver and disbursur.

Harvy Clarke to Informe in tobacco.

Lord Goring For Tobacco.

f.73] Sir Ed. Bromfeild Sir Rychard Weston for Sope.

William Boulton for White and Red lead.

Sir Tho. Cromwell For farming off the Custome off [*blank*]

John Duke For Salt.

Sir Thos. Glover deceased for a Pattent that was by order off the 4o Car. was called in and assigned to bee heard; being a Pattent off sheepe skin.

Sir Anderson moved that all referrees all such that gave Councell for the legallity off Monopolyes; bee putt into the Comittee in and concerning the committing of proiectors and to bee examined by the Comittee assigned for proiectors.

f. 73v] Mr. Harrison for Calfe Skins; A lycence for Raw Hydes.

Yonge Harrison; that his father governed the pattent without gaine from Mr. Maxwell.

Sir Sy. Deuse. 1. Imperative Monopoly Joculary Monopoly; A Restrictive Monopoly; A Destructive Monopoly.

Mr. Hyde delivered a Petition off a Gentelman off Greys In; against the Earl Marshals Court.

If the Judge bee nott att leysure he cannott give power to [*blank*]

f. 74] Quaere: whether the Earle Marshall can give Cost damages Fine and Imprison in that Court.

That ther hath binn a Protestation by his Lordship in the starr Chamber that hee would doe it.

Moved, that they might taste the power off the Lawes that had contemned the power therof.

The high demands off the Heralds upon the death off all men off Quality.

f. 74v] Sir H. Mylemay. Moved that ther might bee a Comittee for the examination off the exorbitancy off the Fees off the Earl Marshalls Court and all other fees off Courts Civill and ecclesiasticall.

Mr. Selden moved that the Fees of the Marshall Courts [*blank*]. That the Marshalls law court sitts and practises the Imperiall law which is nott now in force in this kingdome.

That it is a part off the prehemi[n]ence off the Crowne off England that the Kings subiects should bee governed according to the power off the lawes off the kingdome

f. 75] which wee are bound by the oath off Supremacy to mainteyne.

[Page 55]

f. 76] Sir Th. Roe acquainted the House that a Justice off Peace off this County offering the oath off Aleagance to a Papiste off Quality was threatned by 2 or 3 to bee mett with all, and brought in a paper to certify the particular which consisted as followeth.

f. 76v] Sir Tho. Roe further acquainted the House that ther had binne many seene in the Hall armed sitting in the Kings Bench and that some course [*blank*]

Was an oath before the Master off Chancery. The note was from Sir Mychael Livsey that for tendring the oath to a recusant in sessions in the County off Kent, and for this that 3 off the Finches threatned him to talk with him soundly the next time they mett with him.

Ordered these gentelmen to bee sent for as a delinquent.

f. 77] Alderman Pennington offered security from the City to secure us whose ambition it was by the Hazard off ther lives to secure the members off this House.

[Pages 56-57]

A petition from the Londoners to desire a speciall Course may bee taken against the recusants which abounds about this towne off Thousands upon Thousands and desired that papists might bee distinguished from protestants by ther apparrell.

f. 77v] Sir Jo. Strangwayes moved that a time might bee sett for the setling off the property off the Subiects goods and the libertyes of the persons.

A petition from the Citty contaynes a Complaint off the still abydance off convicted Recusants; Named Walter Mountacute; Sir Kelemne Digby, and Sir Toby Matthews.

Mr. Alderman Pennington. That ther was about 100 Cittizens aboute the dore with swords to secure us and to distinguish themselves had blue ribbons in ther Hatts.

Sir Fr. Stapleton. That the Convocation had a Gaurd and why nott the Parliament House.

f. 78] Resolved by Question; That a Gaurde should bee sett for the Security off this House.

[Page 57]

f. 79] Dr. Cuzens Called; In Kneeling att the Barr.

Asked whether hee sayd that our King was nott the [*blank*]

f. 79v] Answered that hee sayd that the tytel off the supernall[?] head unless that bee taken by a distinction. That the King is supreame governer but nott supreme head. That the clergy had the power from ther order but the Power off Execution was in the Kings; in spirituall Jurisdiction. And vouched Bishop Jewel for the confirmation off this learning.

Mr. Mustion affirmeth that Dr. Couzen did say that the King was nott supreme Head off the Church off England, And that the King had noe more to doe with f. 80] excommunication then the boy that rubbs down his horses Heeles.

Mr. Ogle affirmeth that hee preferred many Indictments against Couzens for Innovations in the Church and for the wordes charged now upon him.

The Lord Fairfax informed this Court that A minister att Dore acquainted him that his sonne tould him that Dr. Couzens endeavoured to pervert him and to induce him to Popery. All this busines referred to the Committee.

[Nov. 24]

[Page 59]

f. 82] Mr. Vassall that the Citty was nott satisfyed with the manner off the security by taking off a multitude; but if some particular men would stand ingaged for it; it would bee thought excepted.

Mr. Treasurer. That the Scotts goe on to levy and makes out new commissioners for the Contribution; intimated by letters.

[Page 63, after the conclusion read]
f. 88v] The Reservation and degrees off tryall and Judgment Resolved by Question to stand.

[Page 63]
f. 89v] Sir Jo. Strangwayes. That the property of the Subiects might be setled; and that a day may bee assigned for the particular off Shipmony and that it would bee very short standing upon 2 points only the 1 whether that those Judges that Delivered the iudgment in the point off shipmony were Competent Judges or noe. The other [*blank*]

[Nov. 25]

[Page 64]
f. 90v] Upon Wednesday.

Sir William Bretton [Brereton]. Delivered off petition from Foxley committed by the high Commission and had pen and Inke and paper inhibited him, without being att all heard and entreated, for refusing the Oath *ex officio*.

[Page 66]
f. 92v] Alderman Penington. Acquainted the House that they had a Message from the Lords Commissioners for the present provision off 20,000£ and that the Lord Maior had sent out warning to the particular men to lend even to the Summ off 28000£ and that hee thought the Money was ready if the security were but twis found that the generall ayme was to have duble security 2 in A Bonde.

[Nov. 26]

[Page 68, at beginning of the day]
f. 94v] Upon Thursday.

A Petition by Sir Jo. Stowell for the County off Complaints against the carriage and oppression off the Bishop off Bath and Wels.

A Bill for the ordering off the place off the Clerke of the Markett, nott to exercise his place but upon the markett day openly in the Markett place, nott to take greater fees then is limited by statute. Nott to take any fee for weights formerly markt. That 1 weight 1 yarde 1 measure 5d penalty distress for want of entrys comittment, The penalty to the poore off the parish where the offence, 1 Time Red.

[Page 69]
f. 95v] Tewsbury erected in 29 Eli. Noe antient Borough nor had any right off sending any Burgess until 7° Jac. when they obteyned a Pattent for the Baylife, Burgesses and commonalty. The Question whether that the inhabitants off the Towne nott freemen ought to have voyces. The opinion off the Committee that they ought to have voyces. That the freeholders that were nott Inhabitants nott to have voyces. That freeholders were accepted inhabitants refused; and that by the opinion off the Committee that a new Election.

f. 96] Mr. Pim. Borroughs by prescription all inhabitants have power off Election. Boroughs by Grant; according to the limmitation off the Grant. That in this Case it was by Grant which is to the Baylif, Burgesses, and Cominalty that is to the body politic which are those by this Limitation ought to have the power only off Election.

Resolved upon Question.

f. 96v] Mr. Grimston Vouched the Case off Colchester which had equall case with this and was Resolved by the House that the worde Cominalty did extend only to the freemen and nott to all the Inhabitants.

Mr. Selden. That all Inhabitants must make the Election. That the reason is from the Creation off the Power; when the King granted to make this towne a Corporation to whom did hee grant it, to the Towne and so the Towne and every inhabitant is off the Towne is thus incorporated and have voyces and though every f. 97] Inhabitant cannott have An Successor as barly an Inhabitant, but as an Inhabitant off that Towne which the King have incorporated may have Successors.

Ordered that this busines off Tewksbury should bee recommitted.

[Nov. 27]

[Page 74]
f. 112] Mr. St. John. That the ship mony is nott the greevancy; but the opinion off the Judges in the exchequer chamber is the greevance; that was wher the kingdome is in danger that the King may rayse moneyes upon his subjects according to his will for the defence off the subiect and kingdome. Perillous doctrine to this state. *Bonum publicum* is the argument and is soe large as it takes away all property. The power off Parliament taken away by this Judgment. If this have binne Judged f. 112v] and Judged over againe by the Parliament shall be Judged by the Judges, shall bee Judged contrary what use off Parliaments more then to give money. The Jud[g]ments that have bin given are absolutely against the Petition off Right. That the clause sent downe from the Lords in the Petition off Right by way [of] addition was much debated. That ther is a Sovereigne power in the King for the preservation off the good off his people; and protection. Yet for ther protection cannott lay any f. 113] imposition upon the subiect without consent in Parliament. 20 October 2 Car. The Commission off loan grounded upon the invincible necessity for the defence off the kingdome it was enforcive by Imprisonment it was determined in Parliament and soe passed both Houses that it was illegall.

Commissions 3° Car. for imposition or other levyes to bee made for the necessary defence off the kingdome were all condemned in Parliament. Moved that ther might bee a Committee might bee appointed for the examination off these Judgments and to report them to the House.

[Page 74]
f. 113v] Mr. Selden represented that a Judgment was given in the Exchequer in the point off Tunnage off Poundage upon the statute 1 off Jac. in the first off King f. 114] Charles as in the first off King James when that statute was out off date and noe statute to intitel the King to it which was as great a grevance in the point off property and desired it may bee taken off consideration.

[Page 75, note 17]
f. 115] Mr. Pim. There is a difference betwene a conference and a free Conference. In a Conference wee only carry our Eares; In a free Conference wee carry nott only our Eares but all must goe prepared to mainteyne what wee have delivered up upon the Message to the Lords.

Sir Tho. Roe. That any off the Committee appointed to goe to a Conference with the Lords any off them may speake and none hath other limitts then his owne discretion.

[Page 76]
f. 115v] Sir Tho. Roe Delivered a petition from Tho. Rich Esq., by which it was sett forth. That the King granted by Pattent the Bayliwick off the Thames from Staynes and upward. By which Petition Mr. George a member off this House is charged with great oppressions.

f. 116] Mr. George. The King granted the Court [Care?] off the River off Thames above Staynes; Granted the fines and amerciaments; which are come to the goverment.

Mr. George, ordered to give the House satisfaction that wee might Judge whether it were fitt that he should sitt amongst us.

Mr. St. John. 50 Ed. 3 N. 33. The Lord Nevills Case . . .

[Nov. 28]

[Pages 76-77]

f. 117] Saturday.

Bruers, Petition referred to the Committee.

Dr. Cuzens exhibited a Petition by the Speaker; desiring this House for freedom for the Sergeant off Armes his Custody and that hee might returne to the Convocation House and that hee would bee ready to appeare as hee should be called. Referred to the Comittee for him.

[Page 78]

f. 117v] A Petition directed to the House from the Merchants off Ireland, Conteyning that Goods are bought with his Majesties money and they inforced to buy the same goods, the Bookes off Rates advanced on 3^{d} part.

f. 118] That the Comittee off the House off Parliament off Ireland are nott suffered to come to informe in England.

[Pages 78-80]

f. 119v] Sir Sy. Deuse Mr. St. John. Reasons six members to bee present att the examination off the wittnesses in the busines off the Lord Strafford. The accusation off this House is noe more then in the nature off an Indictment; which in Law ought to bee carryed privatly and the examination to bee taken in private soe as the party may nott take knowledge to avoyde but after when hee comes to closure all readmitted for the better cleering off the Justice off the Cause.

f. 120] Mr. Whistler. Reason the cause off Precident; The greatest Reason in this cause High Treason; The Lords Duty as well as ours to advance Justice. As wee gave the charge soe are wee to mainteyne the charge; How can wee doe this if wee bee nott ther to see what the depositions are. How can wee make a reply.

Mr. Pim informed the House that what stooke much with the Lords was the suplementall proofe; which is a grevance accounted in all Courts of Chancery and f. 120v] other Courts. The Judge may examine a wittnes after publication but the party may nott; soe in some case supplementall proofe alowable *Ad informandam conscientiam.*

Mr. Treasurer moved that we might lay asyde precidents and apply ourselves to Reason, and appoint some few to argue the Reasons to the Lords and in Fayer way to leave to ther Lordships.

[Pages 80-81]

f. 121] Sir Jo. Hotham. That Sir William Udall shall bee the Treasurer and convey it to the Army and to the Comittees off the Countyes already appointed for the contribution off the Countyes to the Scotch Army; for the payment off both Armyes f. 121v] That the monyes whatsoever come in are to bee payd to the Kings army and the Scotch in proportion as 2 to 3 as if 30,000£ to the Kings Army then 20,000£ to the Scotch.

[Nov. 30]

[Page 83]

f. 123] A Petition from New Sarum against Sergeant Hyde that had procured himselfe unduly to be returned Burgesse for Sarum Hee unfitt. 1. for declaring himselfe to be against the breding off poore mens children in learning.

For the supression off Preaching.

For Counten[an]cing by his opinions Ship money.

For Iniustice in his place as Recorder off that Towne, against many off the cheife Burgesses and others that had opposed his election the last parliament, as other miscarriages.

f. 123v] Ordered that a Comittee bee named for the examination off this complaint as also off Mr. Georges Busines. The Committee named. . . . Noe man that is out off the House att the debate can bee off a Committee for the busines. . . .

Sir John Clothworthy. That ther was some off the Members off the House off f. 124] Parliament come over; whereupon before ther comming over some questioned them whether they would come over; whether they would come over without leave; They answered that they thought themselves bound to come over being served with severall orders; Hee then charged them nott to stirr upon ther aleagance without leave.

[Pages 83-84]

f. 125v] Mr. Maynherd from the Committee for menteining the reasons for some members off this House to bee present att the examination off the wittnesses against the Earle off Strafford; and have, That they found this manner to bee the Course off all the Courts off iustice off this Kingdome in Capitall Crymes.

Mr. Sollicitor That it doth agree with right with the rule and practice off the Common Law, and Justice demands it.

[Jan. 29. 1641]

[Page 302, note]

f. 134] Sir Knelemne Digby Called In and asked by what authority could Mr. Con use better meanes for the advancement off the Contribution then any others.

Answered that hee conceived that hee had better acquaintance with Prests that lived in Gentelemens Houses then others in respect off the relation that hee had to our Pope they bere respect to the Pope.

To the Question whether that Seigneur Con was the Popes Nuncio That hee conceived him to bee an Agent off civility from the Pope to the Queene; but hee con- f. 133v] ceived him nott to have any iurisdiction. That hee did know Count Roscetto and did conceive him to bee but sent in civility but nott with any Jurisdiction for hee have heard him disclaymed.

Mr. Montague Called In. That Mr. Con had more acquaintance then any other had with the work off the Recusants off England; and soe fittest to distribute the Motives. That hee have heard that Seigneur Con came hether as legate from the pope but hee did nott beleeve it for by his acquaintenance hee is confident that hee would f. 133] have acquainted him with his Jurisdiction if hee had any but did nott. That his imployment was to sett a fayer intelligence betwene the Pope and the Queene in the point off his owne Particular Religion and give the pope intelligence off her desires. That Roscetto had the like imployment.

Mr. Mountague Called in againe. Whether that hee did nott know off a Commission granted to the Earle of Worster; answered noe.

These Gentelmen referred to the Committee and to bee discharged.

COMMITTEE NOTES

f. 142] Att the Committee for Ireland.
Mr. Whistler in the Chayer.
Upon Saturday. [Nov. 7. *Cf.* above, pp. 12-14]

The Lord MontNorris his Petition preferred by Sir Walter Earle: Suggesting that the Lord Leiutenant putt him by the Secretarys place being granted in reversion to him by King James and placed Sir Ph. Mannering therin.

That his Lordship had in the times off peace held a Councell off warr and Questioned him for wordes and pronounced Sentence off death against him; That after hee kept in close prison for 2 yeeres; That hee caused an information to bee exhibited f. 141v] in the Castel Chamber. Ther was annexed to the Petition the sentence off the Lord President off Councell off Warr.

Ordered that the Lord MountNorris shall bee sent for to make good the particulars off the petition.

The Lord affirmed the truth of the petition; and that hee would make it good. That the Sentence annexed was such as hee could gett; but hee cannott affirme it authenticall for hee could nott gett an authentick coppy though hee petition for it; But hee hath a Pardon that referrs to the Sentence. And that this Sentence was by a Marshall Court and that in the times off Peace when the Courts off Justice were open; especially procured by the Lord Deputy for this proceeding.

Mr. Pim Moved that this busines might bee examined by a Select Committee.

f. 141] Ordered That Sir Jo. Hotham Mr. St. John Mr. Grimston Sir Fran. Seimer Tuesday the afternoone att 2 in the clock in the afternoone in the Treasury Chamber to consider the part off this petition and the proofes theroff; And that the Committee shall have power to send for wittnesses and Records.

[The Bishop of Waterford's crimes are also brought up]

f. 140v] Upon Thursday att the Committee for Ireland. [Nov. 12 ? *Cf.* C.J. II, 21, 27]

The Lord Dillon delivered a Petition against the Lord Leiutenant; Conteyning a suggestion that after hee had purchased certayne lands as concealed lands which were found out by virtue off a Commission granted by King James to that purpose; that hee hath now had this land taken from him by virtue off an Order from the Councell Table ther and by the anticipating off the opinion off the Judges by putting the Case in A and B and obteyned ther opinion before hand.

The Lord Dillon brought in and avowed his petition.

Ordered that this petition bee referred to the select comittee appointed for the Lord MountNorris busines; and that Mr. Selden and Mr. Glinn should bee added to that Comittee.

f. 140] Att the Comittee off Grevances. [Nov. 18. *Cf.* above, p. 42, n. 9.]

Mr. Townsende preferred a Petition concerning some hard measure hee had received from Sir An. Thomas in the busines off Dreyning. Wedsenday next appointed for the hearing off this Busines.

Alderman Abel; Brought in his pattent concerning wine.

A petition from the Coopers off London.

A Petition off Law a Cardmaker.

f. 139v] Alderman Abel; inioyned to bring all papers and bookes off Accounts and contracts and Bonds concerning the Pattent and busines off wines.

Alderman Abell affirmed that the Lord Hamleton had 4000£ per annum Sir James Hamilton 1000£ and Mr. Cilvert 500£ per annum. That ther was 2000£ given by the Company off Vintners; 1000£ wheroff was given to the Lord Marquess the other to Rychard Cilvert to make this busines move.

Alderman affirmeth that this busines was broached Anno 1632 by the Earle off Malbury. Anno 1633 the Vintners prohibited by decree in starr chamber from dressing off meate wherupon they were enforct to petition his Majesty for liberty to dress meat without which they could nott live.

f. 139] Wherupon the Lords referrees demand a summ off money; which they refusing; were subpoened into the Starchamber to receive sentence; wherupon ther was 6000£ lost.

The Speaker taking the chayer and upon the Report ordered that Rychard Cilvert shall bee sent for as a delinquent by a Sergeant off Armes.

f. 138v] Thursday afternoone att the Committee for Ireland. [Nov. 19. *Cf.* p. 46, note]

Mr. Pim delivered a Remonstrance off the state off Ireland.

A generall decay off Trade by the inhansing off impositions.

That the arbitrary iudgments off all cases by referrments from the Lord Leiutenant; and all the Councell Table.

The proceedings off civill causes at the Councell Board.

That the Subiects are debarred off the Kings princely grace especially by the statute 21º Jacobi off Limitations.

That the proclamation off preemption off Tobacco.

The universall deludge off Monopoly.

f. 138] The encrease off monopolyes.

The extreame use of Commonessarts [?] and Brittish farmers att Londondery which have overthrowne the plantations ther.

The extreame high Carriage off the Jurisdiction off the High Commission. That his Majesties Attorney have exhibited many informations against Borough Townes by what right they sent Burgesses to parliament and when they sett nott out the reasons the Burgesses were inhibited to send any to parliament.

The proclamation off inhibition for people off quality to come into England without f. 137v] Lycence; and those purchased with charges, That great grante off subsedyes and Hydes to his Majesty yett notwithstanding his Majesties debts in that kingdome growne very great. The parliament affrighted by the greatnes off the Lord Leiutenant.

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Sir Simonds D'Ewes.

NAME OF BORROWER.

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D'Ewes, (Sir) Simonds
The journal of Sir Simonds D'Ewes from the beginning of the Long Parliament to the opening of the trial of the Earl of Strafford

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